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SIR T. CATO WORSFOLD, Bt.
LL.D., M.A., J.P., D.L.,
Solicitor of the Supreme Court

VOLUME VI
DEATH DUTIES

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PRACTICAL GUIDE
TO DEATH DUTIES

AND TO
DEATH DUTY ACCOUNTS

BY

CHARLES BEATTY

SOLICITOR, OF THE ESTATE DUTY OFFICE, SOMERSET HOUSE

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PREFACE TO THE EIGHTH EDITION

THE Finance Act, 1930, with notes thereon so far as affecting Death Duties was issued as a Supplement to the Seventh Edition, but is now incorporated in the present one.

That Act again increased the rates of Estate Duty, although it left untouched the rates of duty upon estates not exceeding in value £120,000. Beyond that figure, however, the increases are considerable, and the maximum rate, i.e. for estates exceeding £2,000,000 now reaches 50 per cent.

The Act amended the law so as to bring within the ambit of Death Duty taxation certain transactions by which a person transferred his interest in property to a company.

C. B.

ESTATE DUTY OFFICE
SOMERSET HOUSE.

PREFACE TO THE FIRST EDITION

THE Author's experience on both sides of the "counter," viz. formerly as a Solicitor having the conduct of Death Duty matters, and now as an Examiner of Accounts at the Estate Duty Office, has led him to believe that a simple guide to the duties, together with practical directions as to the preparation of accounts, would be of service to the practitioner. It is obvious that so complicated a subject as Death Duties cannot be exhaustively treated in the limits of so small a volume as this; the Author's object has been to outline all the duties, enlarging upon such points as his practical experience shows him most frequently arise. When notifying parties of claims which have arisen, the Estate Duty Office indicates (and will supply if so desired) the appropriate forms; it is therefore unnecessary to print them in this book.

C. B.

ESTATE DUTY OFFICE

SOMERSET HOUSE.

November, 1905

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PRACTICAL GUIDE TO DEATH DUTIES

CHAPTER I

GENERAL OUTLINE OF THE DEATH DUTIES

What Duties Payable

IN order to decide what death duties are payable upon the death of a deceased person, regard must, in general, be had to the *date of the death*.

For the purpose of this chapter, therefore, the duties will be treated under three headings, viz.—

1. Duties payable in cases of persons dying *before* the commencement of the Finance Act, 1894, viz., 2nd August, 1894.

2. Duties payable in cases of persons dying *on* or *after* the 2nd August, 1894.

3. Duties payable from the date of their first imposition in cases of persons dying *before* or *after* 2nd August, 1894.

I. DUTIES PAYABLE ON DEATHS BEFORE 2ND AUGUST, 1894

- (a) Probate Duty.
- (b) Account Duty.
- (c) Temporary Estate Duty.

(a) PROBATE DUTY

This is the oldest of the death duties, and dates from 1694. It was at first a tax of 5s. upon any probate or administration of an estate above the value of £20; and, after various changes, which need not be here noted, in 1881¹ an *ad valorem* Stamp Duty at a percentage according to the value of the estate was imposed, and the deduction of debts and funeral expenses before estimating the value upon which duty was payable was allowed.

Immediately previous to the passing of the Act of 1881, Probate Duty was payable upon the *gross* value of the estate without any allowance for debts and funeral expenses, but a return of duty was allowed in respect of debts paid upon presentation of the vouchers and an affidavit in support thereof.

The same Act imposed the then new duties upon probates or letters of administration granted on or after the 1st June, 1881, *irrespective of the date of death of the deceased*; so that where it is desired to prove the will or obtain letters of administration at the present time in respect of a person who has died at any time before the 2nd August, 1894, the duties imposed by the said Act apply.

Cases of *correction* of Probate Duty where the grant of probate or letters of administration has been obtained before the 1st June, 1881, are still governed by the law in force before the passing of

¹ Customs and Inland Revenue Act, 1894, 44 Vict., c. 12.

44 Vict., c. 12, but such cases are now so rare that it is not considered necessary to enter into any details regarding them.

Property Liable

Probate Duty is only payable upon the deceased's *personal* property, including leaseholds.

Such personal property will naturally include—

(a) Partnership property which is always impressed with the character of personalty.

(b) Real estate, forming part of the deceased's property, directed to be sold by another person whether actually sold or not before the death of the deceased.

(c) Proceeds of real estate which the deceased had contracted to sell before his death, but where the transaction was uncompleted at the time of the death.

Property not Liable

On the other hand, Probate Duty is *not* payable in respect of—

(a) Real estate (other than as above).

(b) Property of which the deceased was merely a trustee.

(c) Property situate out of the United Kingdom and not capable of being dealt with here.

(d) Certain classes of property which are in the nature of real estate, such as the old New River shares.

(e) Estates *pur autre vie*.

Rates of Probate Duty.

The rates of Probate Duty are as follow¹—

Estates not exceeding £100	. . .	Exempt.
Estates exceeding £100 and not exceeding £500	. . . . .	{ £1 for every £50 and any fraction of £50.
Estates exceeding £500 and not exceeding £1,000	
Estates exceeding £1,000	. . . . .	{ £1 5s. for every £50 and any fraction of £50.
Estates exceeding £1,000	. . . . .	{ £3 for every £100 and any fraction of £100.

Under section 33 of the Act² accounting parties have the option to pay a fixed duty of 30s., where the whole personal estate, wherever situate, does not exceed £300 in value, *without* deduction for any debts or funeral expenses. If it be afterwards discovered that the estate exceeded £300, then the ordinary rates of probate duty are payable upon the corrected value, and the fixed duty of 30s. is absolutely forfeited.

Debts Deductible

By section 28 of the Act the debts deductible from the value of the estate for Probate Duty are debts owing from the deceased and payable by law out of any part of his estate comprised in the affidavit.

They are not to include—

(a) Voluntary debts expressed to be payable on the death of the deceased, or payable under any instrument which shall not have been *bonâ fide* delivered to the donee thereof three months before the death of the deceased.

(b) Debts in respect whereof any real estate may

¹ 44 Vict., c. 12, sect. 27.

² 44 Vict., c. 12.

be primarily liable or a reimbursement may be capable of being claimed from any real estate of the deceased or from any other estate or person.

The funeral expenses allowed are to be "reasonable . . . according to law."

Valuation of Property

The value of the deceased's estate should be taken at the date of the affidavit leading to the grant, and all accretions of income from the date of the death to that of the affidavit should be included.

The payment of Probate Duty exempts the property upon which it is paid from 1 per cent Legacy and Succession Duties, in cases of grants of probate or administration obtained on or after 1st June, 1881, pages 15 and 18.

See also "Probate Duty Forms," page 138.

(b) ACCOUNT DUTY

This duty was imposed by the same Act¹ as that under which the present rates of Probate Duty were imposed. It was perhaps considered that the new rates of Probate Duty would lead to evasion, and, accordingly, the Account Duty was created to defeat any such attempts.

It is chargeable upon personal property only, including leaseholds, in the same way as Probate Duty and according to the value of such property.

¹ 44 Vict., c. 12.

Rates

The rates of Account Duty are the same as those for Probate Duty, but the fixed duty of 30s. under section 33 of the Act¹ does not apply to cases of Account Duty.

Property Liable

Under section 38 of the Act, as amended by section 11 of 52 Vict., c. 7, Account Duty is payable in respect of the following classes of property upon deaths of persons dying on or after 1st June, 1881, viz.—

(a) *Donationes mortis causâ*, i.e. death-bed gifts.

(b) Gifts not *bonâ fide* made twelve months before the death of the deceased.

(c) Gifts, whenever made, of which *bonâ fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

(d) Any property which the deceased, having been absolutely entitled thereto, has voluntarily caused to be transferred to himself and any other person, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person. This shall also include any purchase or investment by the deceased either alone or by arrangement with any other person.

(e) Any property passing under a voluntary

¹ See p. 4.

settlement made by the deceased or any other instrument not taking effect as a will, whereby an interest for life or any other period determinable by reference to death is reserved expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by exercise of any power, to restore to himself or reclaim the absolute interest in such property. "Voluntary settlement" shall include any trust, in writing or otherwise, in favour of a volunteer.

(f) Moneys payable under a policy kept up by the deceased on his life for the benefit of a donee; or a part of such moneys in proportion to the premiums paid by the deceased, where the policy was partially kept up by him for such benefit.

It should be remembered that *ante*-nuptial settlements are not "voluntary" settlements, marriage being a valuable consideration so far as regards the contracting parties and any issue of the marriage, and therefore to that extent do not fall within the scope of Account Duty. But *post*-nuptial settlements are "voluntary," and Account Duty attaches to the personal property passing under them.

Attempted Evasions of Probate Duty Caught by Account Duty

It will thus be seen that Account Duty attaches to all kinds of dispositions of a deceased's personal property made without valuable consideration at any time within a year of his death, and to any similar dispositions, no matter when made, where

the deceased, expressly or by implication, reserved an interest to himself ceasing upon his death.

An attempt to evade payment of Probate Duty by a deceased having, in his lifetime, assigned all his personal property to another with a condition, expressed or understood, that the deceased should enjoy the income during his life, therefore comes within the scope of Account Duty.

Like Probate Duty, the payment of Account Duty exempts the property upon which it is paid from the 1 per cent Legacy and Succession Duties.

Limitation of Duty

Account Duty is, of course, only now payable in respect of voluntary dispositions, as above enumerated, made by persons dying on or after 1st June, 1881, and before 2nd August, 1894, but the subject has been more fully considered than may appear to be necessary, having regard to the fact that the Finance Act, 1894, incorporates the sections of the two Acts imposing Account Duty, and renders the properties theretofore liable to Account Duty liable to Estate Duty.¹

And see "Account Duty Forms," page 144.

(c) TEMPORARY ESTATE DUTY

This duty, commonly called "Goschen's" Estate Duty, was imposed by 52 Vict., c. 7, and is an extra duty of £1 per cent upon estates exceeding £10,000 in value.

¹See p. 22.

Payable on Estates Exceeding £10,000

Section 5 of the Act enacts that, in case of any person applying for probate or letters of administration on or after 1st June, 1889, where the value of the property in respect of which Probate Duty is payable exceeds £10,000, a statement of the value of the property shall be delivered with the Probate Duty affidavit.

A similar statement is to be delivered where the property included in an account for purposes of payment of Account Duty exceeds £10,000.

Upon every such statement there shall be paid a duty of £1 for every £100 or part of £100 of the value of the said property.

And on Successions Exceeding £10,000

Under section 6 of the Act, where the value of any succession, upon the death of any person dying on or after 1st June, 1889, chargeable with Succession Duty, exceeds £10,000, and where the value of any succession to real property under the will or intestacy of any person so dying chargeable with Succession Duty does not exceed £10,000, but such value together with the value of any other benefit taken by the successor under such will or intestacy exceeds £10,000, a separate statement of the value of the succession shall be delivered with the Succession Duty Account, and a like duty of £1 per cent as above paid.

Leaseholds paying Account Duty and the extra 1 per cent duty under section 5 are exempt from any further claim under section 6.

Valuation of Successions

The mode of valuing successions for the purpose of the Temporary Estate Duties is laid down in section 6 (5) of the Act, which provides that where the successor is entitled in fee, or in tail, or under any lease for lives, or for life and competent to dispose as he thinks fit of a continuing interest in the property, the value shall be the principal value of such property. But the duty payable in respect of such principal value shall not exceed the amount which would be chargeable upon an annuity equal to such annual value according to the highest value in Table III in the Schedule of the Succession Duty Act, 1853, i.e. the value of an annuity for ninety-five years.

The Duty Temporary Only

Section 7 of the Act declared that these duties should not be payable in respect of estates of persons dying on or after the 1st June, 1896, the Act only being intended as temporary; but the duties are of course superseded by the Estate Duty imposed by the Finance Act, 1894, in cases of persons dying after the 1st August, 1894.

Allowance Under Finance Act, 1896

Section 21 of the Finance Act, 1896, directs an allowance to be made against Estate Duty in respect of any Temporary Estate Duty paid upon the same property under the same will or disposition.¹

¹ See p. 47.

See also "Temporary Estate Duty Forms," page 145.

2. DUTIES PAYABLE ON DEATHS AFTER 1ST AUGUST, 1894

(a) Estate Duty.

(b) Settlement Estate Duty.

(a) ESTATE DUTY

Property Liable

This duty was imposed by the Finance Act, 1894,¹ upon the principal value of all property, real or personal, settled or not settled, passing on the death of any person dying after the 1st August, 1894.

The Act declares that certain classes of property, therein enumerated, shall be deemed to be property "passing" upon the death of a deceased, expressly including therein property which would have paid Account Duty, and property of which the deceased was "competent to dispose." A definition of the phrase "competent to dispose" is given in the Act.

General Provisions

Provisions for ascertaining the principal value of the property, deduction of debts, payment of the duty upon interests in expectancy, payment of the duty upon real property by instalments, etc., are contained in the Act.

Rates of Duty, etc.

The duty is payable at graduated rates ranging from 1 to 50 per cent upon the value of the property

¹ 57 & 58 Vict., c. 30.

passing. The "fixed duty" of 30s., payable for Probate Duty in cases of estates not exceeding £300 gross, is adopted for similar Estate Duty cases, and a new "fixed duty" of 50s. made applicable to estates not exceeding £500 gross.

Relief is given from the 1 per cent Legacy and Succession Duties upon property which has paid Estate Duty,¹ and Estate Duty supersedes the old Probate Duty, Account Duty, and Temporary Estate Duty.

Aggregation

The principle of "aggregation" or the lumping together of all properties passing on the death of the deceased, no matter under what title, in order to arrive at the rate of duty payable, is introduced by the Finance Act, 1894. Certain exceptions are made as to properties not passing on the deceased's death to a wife or husband or lineal ancestors or descendants; and where the deceased's own free estate does not exceed £1,000 net, such is excluded from aggregation. A limitation of the rates otherwise payable under the principle of "aggregation" is introduced by section 12 of the Finance Act, 1900, and, as to deaths on and after the 19th April, 1907, extended by the Finance Act, 1907 (sect. 16), but abolished, as to deaths on or after the 29th July, 1927, by section 51 of the Finance Act, 1927.

Small Estates

The Finance Act, 1894, also frees the estate of a deceased passing under his own will or intestacy

¹ Except where the Finance Act, 1910, applies, see pp. 118 and 131.

which has duly paid Estate Duty and which does not exceed £1,000 net from payment of Settlement Estate Duty, Legacy and Succession Duties.

Exemptions Under Finance Act, 1896

The Finance Act, 1896, grants exemption from Estate Duty in cases where the "passing" of the property upon the death merely results in a reverter to a settlor in his lifetime, and allows a deduction against Estate Duty for certain duties already paid upon the capital value of the property under the same disposition.

The reader is referred to the chapter upon "Estate Duty"¹ and "Estate Duty Forms."²

(b) SETTLEMENT ESTATE DUTY

Section 5 of the Finance Act, 1894, imposed this duty, defining it as a "further Estate Duty," but it is no longer payable in cases of persons dying after 11th May, 1914.³

When Payable

It was a duty of 1 per cent (increased to 2 per cent as regards deaths on or after 30th April, 1909⁴) payable upon the principal value of property in respect of which Estate Duty was payable, and attached to property settled by the will of the deceased, or having been settled by some other disposition passed under that disposition on the death of the deceased to some person not "competent to dispose" of the property.

¹ Page 19.

² Page 146.

³ Sect. 14 of Finance Act, 1914.

⁴ Finance Act. 1910, sect. 54.

It was not payable where the only life interest in the property after the death of the deceased was that of a wife or husband of the deceased.

Provision for Repayment

The Finance Act, 1898 (sect. 14), contains a provision for repayment of Settlement Estate Duty paid upon property contingently settled, where it is shown that the contingency has not arisen and cannot arise, and section 14 (b) of the Finance Act, 1914, allows a deduction for this duty against a second Estate Duty claim on the same property.

See also "Settlement Estate Duty," page 95, and "Settlement Estate Duty Forms," page 186.

3. DUTIES PAYABLE ON DEATHS BEFORE OR AFTER 2ND AUGUST, 1894

(a) Legacy Duty.

(b) Succession Duty.

(a) LEGACY DUTY

When Imposed

This duty was first imposed in 1780, and after undergoing certain changes was further altered by 36 Geo. III, c. 52, which statute still regulates its charge and manner of payment in most particulars.

When Payable

It may be defined as a duty payable upon gifts passing under a will (including benefits taken under a deceased's intestacy), where such gifts or benefits are payable out of the deceased's personal estate.

It is, of course, payable in addition to the Probate or Estate Duty first leviable upon the whole estate.

Death-bed gifts, *donationes mortis causâ*, are expressly made liable to Legacy Duty.

The rate of duty depends upon the relationship of the beneficiary to the deceased.

In 1805¹ the duty was first imposed upon legacies charged upon or payable out of real estate and the proceeds of sale thereof; but, as we shall see later, this was repealed.

In 1815² the rates of Legacy Duty were again revised, lineal ancestors and descendants being made liable to a 1 per cent rate, but the other rates remaining as before.

Relief from 1 per Cent Duties

Later Acts have granted relief from payment of Legacy Duty in certain cases. Thus the Customs and Inland Revenue Act, 1881 (which increased the rates of Probate Duty and introduced Account Duty), gave exemption from the 1 per cent Legacy and Succession Duties in respect of property which had paid Probate or Account Duty. It also granted relief from all Legacy and Succession Duty, no matter what the rate of duty might be, in cases of estates upon which the fixed Probate Duty of 30s. had been paid.³

The Finance Act, 1894, gives a similar exemption from the 1 per cent Legacy and Succession Duties in respect of property which has paid Estate Duty, and from all Legacy and Succession Duty, no

¹ 45 Geo. III, c. 28. ² 55 Geo. III, c. 184. ³ *Supra*, p. 4.

matter what the rate of duty may be, in cases where the whole of the deceased's estate passing under his will or intestacy, and paying Estate Duty, does not exceed £1,000 in value. The Finance Act, 1910, has abolished the former exemption in cases of certain large estates, see pages 118 and 131.

Legacies Out of Real Estate

The Customs and Inland Revenue Act, 1888, altered the 1805 Act by declaring that legacies charged upon or payable out of real estate and the proceeds of sale thereof should no longer be chargeable with Legacy Duty; they therefore became liable to Succession Duty. That Act introduced additional rates of Succession Duty, so that such legacies became liable to the higher rates. The duties upon legacies payable out of pure personal estate and those out of real estate therefore became more equalised. In the former case, the whole estate had already paid Probate Duty, and the legacy paid Legacy Duty in addition; but in the latter case—no Probate Duty being payable upon realty—the legacy charged upon real estate had hitherto only paid Legacy Duty. The 1888 Act accordingly made such legacies liable to the higher rates of Succession Duty. As the Finance Act, 1894 charges Estate Duty upon both real and personal property, it became necessary to amend the 1888 Act. Accordingly, the 1894 Act absolves property chargeable with Estate Duty from such higher rates, so that such rates are now only

chargeable in cases of deaths after the 1888 Act and before the 1894 Act, and in cases of deaths after the 1894 Act where Estate Duty is not chargeable.

Legacies charged upon or payable out of real estate and the proceeds thereof are still therefore liable to Succession Duty, but as the rates of Legacy and Succession Duty are the same in respect of the property which is chargeable with Estate Duty, the distinction, for all practical purposes (except in cases where there is a conflict between Legacy and Succession Duties, as to which see page 128), is unimportant.

See also pages 104 and 190.

(b) SUCCESSION DUTY

When Payable

The Succession Duty Act, 1853,¹ brought this duty into existence. It is a duty upon real as well as personal property, whether passing under a will or any other disposition, but does not attach where Legacy Duty is payable by the beneficiary in respect of the same acquisition of the same property.

The Act absolved leaseholds from Legacy Duty, so that they became chargeable, as now, with Succession Duty. Various dispositions or passings of property are declared by the Act to confer successions, thus rendering the property passing liable to Succession Duty, and provision is made for taking the duty upon the value of the life

¹ 16 & 17 Vict., c. 51.

interest of the successor, so far as regards real or leasehold properties.

Like Legacy Duty, the rate of Succession Duty depends upon the relationship of the beneficiary to the "predecessor" or person from whom the interest of the successor is derived. By the Customs and Inland Revenue Act, 1881, relief is given from payment of all Succession Duties where the fixed 30s. Probate Duty is paid, and also from the 1 per cent Succession Duty where the property has paid Probate or Account Duty.

We have already noted (page 15) the exemptions from Legacy and Succession Duty conferred by the Finance Act, 1894.

When Duty Payable on Principal Value

The Finance Act, 1894, section 18, introduced an important provision regarding Succession Duty by declaring that where a successor was "competent to dispose" of the property, the duty should be payable upon the principal value of the property, not upon his life interest only as theretofore. This provision only takes effect in cases of successions arising upon deaths after 1st August, 1894.

The Customs and Inland and Revenue Act, 1888, introduced the higher rates of Succession Duty, but such higher rates are only now leviable upon property passing on deaths after the 1888 Act, where neither Probate Duty, Account Duty nor Estate Duty has been paid.

See also pages 120 and 203.

CHAPTER II

NOTES ON ESTATE DUTY

Estate Duty : Scheme of the Finance Act

THIS duty was imposed by the Finance Act, 1894. In *Attorney-General v. Wood*,¹ Mr. Justice Vaughan Williams said: "It seems to me that the scheme of the Act is intended to include not only every case of property passing by death, but that section 2 (1) (b) shows that the scheme also includes every benefit accruing by death, even though the property from which the benefit is derived does not itself pass."

It may be said, therefore, that, in order to decide whether property is liable to Estate Duty, in cases of persons dying after the commencement of the Finance Act, 1894, the following questions should be put—

- (a) Does the property "pass" on the death?
- (b) Does a benefit accrue on the death?
- (c) Is the property specially exempted from Estate Duty?

Section 2 of the Act declares that certain classified property not literally "passing" on the death shall be deemed to be property passing on the death, so that the question (a) is extended into: Does the property "pass" or is it "deemed to pass" on the death?

¹ [1897] 2 Q.B. 102.

In dealing with this duty in detail, the following divisions may be made—

- (a) Property “passing” and benefits accruing.
- (b) Exemptions.
- (c) Effect of payment of Estate Duty.
- (d) Aggregation.
- (e) Transfer to a company.
- (f) Valuation of property.
- (g) Rates of duty.
- (h) Miscellaneous.

(a) PROPERTY PASSING AND BENEFITS ACCRUING

Property Passing on Death

Section 1 of the Finance Act, 1894, charges Estate Duty (with certain exceptions) upon the principal value of all property, real or personal, settled or not settled, which passes upon the death of a person dying after 1st August, 1894.

“Settled” property is property which stands limited to or in trust for any persons by way of succession.¹

Section 2 of the Act declares that “property passing” shall be deemed to include the following, viz.—

Includes that of which Deceased Competent to Dispose

(a) Property of which the deceased was at the time of his death competent to dispose—

A person is defined by section 22 (2) of the Act as being competent to dispose of property when he

¹ See p. 96.

has such an estate or interest in property, or such general power as would, if he were *sui juris*, enable him to dispose of the property; this definition includes a tenant in tail whether in possession or not. Such general power includes every power or authority enabling the holder to appoint or dispose of the property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both. It does not, however, include any power exercisable in a fiduciary capacity under a disposition not made by the deceased (i.e. where he is clearly only trustee under a trust not created by himself), nor powers exercisable as tenant for life under the Settled Land Act, 1925, or as mortgagee. It expressly includes money which a person has a general power to charge upon property.

All property, therefore, real or personal, over which the deceased had a general power of appointment, is chargeable with Estate Duty upon his death, whether he actually exercised the power or not.

The deceased's share of property of which he was joint tenant or joint owner with another is likewise chargeable with Estate Duty.

Interest Ceasing on Death

(b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased. Such property is chargeable only to the extent to which a benefit accrues or arises by the cesser of such interest. Where the interest was enjoyed only as a holder of an office, or recipient

of the benefits of charity, or as a corporation sole, it is expressly excluded.

**Property Formerly Liable to Account Duty now
Pays Estate Duty**

(c) Property which would be required on the death of the deceased to be included in an account under section 38 of the Customs and Inland Revenue Act, 1881, as amended by section 11 of the Customs and Inland Revenue Act, 1889, as if such sections related to real as well as personal property, and the words "voluntary" and "voluntarily" and a reference to a "volunteer" were omitted therefrom.

These enactments have already been considered under "Account Duty."¹ All classes of property, therefore, which would have paid Account Duty, now pay Estate Duty, and, in addition, the charge of Estate Duty extends to real as well as personal property passing under such dispositions, and it matters not whether the dispositions are voluntary or made for valuable consideration such as marriage. In cases of deaths on or after 30th April, 1909, gifts *inter vivos* made within three years of the death attract Estate Duty (sect. 59 (1), Finance Act, 1910), but this section does not apply to gifts made before 30th April, 1908, or made for public or charitable purposes. Such public or charitable gifts accordingly attract Estate Duty when made within one year of the death, but escape that duty if made outside that period. Wedding presents,

¹ Page 5.

gifts being part of the deceased's reasonable expenditure, and those which, in the case of any donee, do not exceed in the aggregate £100 in value or amount, are altogether exempted from Estate Duty.¹

Annuities

(d) Any annuity or other interest purchased or provided by the deceased either alone or by arrangement with another. Such is chargeable to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

For instance, a man purchases an annuity payable during the joint lives of himself and his wife, and, on the death of either, to the survivor of them. He dies leaving his wife surviving. The extent of the beneficial interest accruing is the value of the annuity for her life, and such is the amount chargeable with Estate Duty.

Certain small annuities are exempt (see "Exemptions," page 25).

Definition of "Property"

Turning to section 22 (1) of the Act, we find the word "property" defined as including real and personal property and the proceeds of sale thereof respectively, and any money or investment for the time being representing the proceeds of sale; and "property passing on the death" includes property passing either immediately on the death or after

¹ Finance Act, 1910, sect. 59 (2).

any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and the expression "on the death" includes "at a period ascertainable only by reference to the death."

Release of Life Interests

The case of *Attorney-General v. Beech*¹ raised the question as to whether there was a "passing" of property upon the death of a life tenant, he having previously surrendered his life interest to the remainder-man. The Court of Appeal decided there was no such passing, and Estate Duty accordingly was not payable. The case of *Attorney-General v. De Prévillé*² carried the matter further by deciding that Estate Duty was not chargeable in such a case, even where the surrender had been made within twelve months of the death of the life tenant. Section 11 of the Finance Act, 1900, enacted, however, that (in the case of every person dying after the 31st March, 1900), notwithstanding any such surrender, the property should still be deemed to pass upon the life tenant's death, unless such surrender were *bonâ fide* made twelve months³ before the death, and *bonâ fide* possession and enjoyment of the property assumed immediately upon the surrender and thenceforward retained to the entire exclusion of the life tenant, or of any benefit to him by contract or otherwise.

¹ [1899] A.C. 53.

² [1900] 1 Q.B. 223.

³ Extended to three years in cases of deaths on or after 30th April, 1909, except as regards dispositions, surrenders, etc., made before 30th April, 1908, or made for public or charitable purposes. Finance Act, 1910, sect. 59 (1).

Re Townsend

The case of *Re Townsend*¹ also contains a decision as to whether property "passed" for Estate Duty purposes on a death. It laid down that where the passing consists in the mere acquisition of the corpus by persons who had, up to the time of the death, been in receipt of the income of such corpus, Estate Duty did not attach. Thus A, dying in 1892, gives an annuity of £50 to his widow, charged upon his real estate, and subject thereto, the rents to be divided between his children equally; and upon the widow's death the whole estate to be divided equally between the same children. The claim for Estate Duty upon the widow's death does not extend to the whole realty then passing, but only to the portion sufficient to meet the widow's annuity.

(b) EXEMPTIONS**Exemptions Generally**

In considering those classes of property passing on the death to which special exemption from Estate Duty is granted by the Finance Acts, it must be remembered that in order to claim the exemption, the property passing must be in all respects similar to the particular class of property, or property passing under the particular disposition, defined by the exempting clause. It is, therefore, necessary to pay particular attention to the exempting clauses of the Finance Acts.

The summary in tabular form at page 91 (*q.v.*)

¹ [1901] 2 K.B. 331.

shows the various classes of properties chargeable and what exemptions apply to each particular class of property.

The exemptions from Estate Duty allowed by the Finance Acts are—

Foreign Property

(a) Immovable property situate out of Great Britain.¹ Such property would not, prior to the Finance Act, 1894, have paid Legacy or Succession Duty.

Since the coming into operation of Government of Ireland Act, 1920, and the Irish Free State Constitution Act, 1922, immovable property situate in Northern Ireland or in the Irish Free State is not subject to British death duties.

Foreign Domicile

(b) Moveable property situate out of the United Kingdom where the deceased was clearly domiciled *out* of the United Kingdom.

But such property *is* chargeable with Estate Duty where the deceased, even though domiciled abroad, was interested only for life, and at his death the property formed the subject of a British trust or was vested in a British trustee.²

Trust Property

(c) Property of which the deceased was merely a trustee for another. *But* (1) the disposition must not have been made by the deceased, and (2) if

¹ Sect. 2 (2) Finance Act, 1894.

² *Attorney-General v. Jewish Colonisation Association* (1901), 82 L.T.R. 679.

made by the deceased must have been made more than twelve months¹ before his death, and possession and enjoyment of the property *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.²

Popular Fallacy

This section clearly explodes the popular fallacy that, in order to avoid payment of the death duties, a man has only to convey all his property to another, whom he wishes to benefit on his death, say, his wife or child, upon the understanding that he himself shall continue to receive the income during his life. Such a disposition, no matter when made, cannot claim the exemption allowed by the section for two reasons: (1) the beneficiary (the wife or child) has not *bonâ fide* assumed possession and enjoyment of the property immediately upon creation of the trust; and (2) such possession and enjoyment (even if assumed by the beneficiary, as where such beneficiary receives the income and pays it over to the original owner) is *not retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise*.

Bonâ fide Purchases

(d) Property passing on death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property

¹ But see footnote 3, p. 24.

² Sect. 2 (3) Finance Act, 1894.

passes.¹ The section also extends to falling-in of leases or annuities for lives where such were *bonâ fide* purchased. If the purchase was made for partial consideration, such consideration is allowed as a deduction against the value of the property for Estate Duty purposes.

Example

The section can best be illustrated by the case of *Attorney-General v. Johnson*,² even though in that case it was held that the section did *not* apply. A agreed with the London Missionary Society to give it £500 on condition that it should pay him an annuity of £25 during his life, and after his death to his wife during her life. The value of such annuity was £210. A died in 1895 and his wife in 1900. Estate Duty was claimed on the £500, and the Court of Appeal held that the claim was good, the case not being one of *bonâ fide* purchase of an annuity. Supposing that the annuity payable to A and his wife had been of larger amount, and the value thereof had equalled or exceeded £500, the case would have fallen within the exemption allowed by the above section.

Duty Formerly only Payable Once During the Settlement

(e) Settled property which has already paid Estate Duty since the date of the settlement does not again pay Estate Duty until the death of a

¹ Sect. 3 (1) Finance Act, 1894.

² (1902), 86 L.T.R. 296.

person at any time competent to dispose thereof¹ except where such person is not *sui juris*.²

But in the case of persons dying after the 15th August, 1914, this relief from payment of a second Estate Duty ceases, except where the previous duty was paid upon the death of one of the parties to a marriage, so far as respects the payment of Estate Duty on the death of the other party to the marriage.³

When Paid on Reversioner's Estate

In cases where the relief from payment of a second Estate Duty operates, the decision *In re Studdert (Commissioners of Inland Revenue v. Priestley)*⁴ should be noted. In that case a wife settled funds by her marriage settlement made in 1861 upon her husband for life, remainder to herself for life, remainder as to the capital in the event of failure of issue of the marriage, which happened, as the wife should appoint. The wife died in 1897 predeceasing the husband, and on her death Estate Duty was paid on the value of her reversionary interest in the capital of the trust funds, after deducting the value of the husband's life interest. The husband died a month after his wife. The Crown claimed duty upon the entire funds of the settlement, but the House of Lords held that no further duty was payable on the death of the husband, as the duty already paid on the wife's death was in respect of the "settled

¹ Sect. 5 (2) Finance Act, 1894.

³ Sect. 14 Finance Act, 1914.

² Sect. 13 Finance Act, 1898.

⁴ (1900), 84 L.T.R. 700.

property." This exemption was extended to cases where the reversioner was *not* the settlor.

The case of *Attorney-General v. Dodington*¹ is similar, but where Probate Duty had been paid upon the previous death; section 21 (1) of the Finance Act, 1894, is the exempting section and is referred to later.² *But, in the case of persons dying on or after the 30th April, 1909, and before the 16th August, 1914, the extension of these decisions confers no claim to relief from Estate Duty except when the reversioner is the settlor.*³

Examples

The instances in which settled property having paid Estate Duty can, at the present time, escape a second duty during the course of the settlement are rare, the whole trend of recent legislation being to limit the exemption from the second duty. There still remains, however, the exemption applicable where the first Estate Duty has been paid on the death of one of the parties to a marriage so far as respects the claim on the death of the other party to the marriage.

For instance: A settles property upon himself for life with remainder to his wife for life, with remainder to his son for life, with remainder to his son's wife for life, and with ultimate remainder to the children of his son. We will assume that each tenant for life actually succeeds to the enjoyment of the property. Upon A's death Estate Duty is

¹ See p. 37.

² Page 33.

³ Sect. 55 Finance Act, 1910, and sect. 14 Finance Act, 1914.

payable upon the property passing to his wife, but upon the latter's death, Estate Duty having been paid on the death of one of the parties to the marriage, and A's wife being the other party to that marriage, no claim for Estate Duty emerges. The property now passes to A's son for life, and upon his death, a claim for Estate Duty arises upon the passing of the property to A's son's wife, while upon the latter's death, no further claim for Estate Duty arises for the reasons above-mentioned.

Where Interest Fails Before Possession and Settlement Continues

(f) In the case of settled property, where the interest of any person under the settlement fails by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.¹

Example

In *Attorney-General v. Wood*² a lady, by marriage settlement, settled a fund upon trust to pay the income to herself during the joint lives of herself and her husband, and on the death of one to the survivor, and on death of the survivor, in the event of there being no issue of the marriage and the wife surviving her husband, both of which events happened, the funds were to go to the wife absolutely. On the *husband's* death, leaving the

¹ Sect. 5 (3) Finance Act 1894.

² (1897), 76 L.T.R. 654.

wife surviving, Estate Duty was claimed upon the whole funds, less the value of the wife's life interest at the time of her husband's death. But the Court held that the above section applied, and there was no duty payable on the husband's death.

Killed on Active Service or in War, etc.

(g) The property of common seamen, marines, or soldiers who are slain or die in His Majesty's service is exempt from Estate Duty.¹

Power is also given to the Treasury to remit death duties up to £150 in cases of soldiers or sailors dying since 11th October, 1899, while on active service, where their property passes to their widows or lineal descendants and does not exceed £5,000.²

This power is extended and further relief granted by the Death Duties (Killed in War) Act, 1914, the Finance (No. 2) Act, 1915, and the Finance Acts, of 1917, 1918, and 1919, in cases of persons killed in the European War. Section 43 of the Finance Act, 1921, extends the provisions of the 1900 Act to persons being members of H.M.'s forces, judges, police force, and Civil Service dying from causes arising out of the then present state of disorder in Ireland, and section 38 Finance Act, 1924, includes, within the benefits, the estates of persons killed or dying on service "of a warlike nature, or which, in the opinion of the Treasury, otherwise involves the same risks as active service."

¹ Sect. 8 (1) Finance Act, 1894.

² Sect. 14 Finance Act, 1900.

Small Annuities

(h) A single annuity not exceeding £25 purchased by the deceased either alone or by arrangement with another is exempt from Estate Duty; and if there be more than one such annuity, the first granted shall be exempt.¹

Gifts to Nation

(i) The Treasury may remit the death duties upon pictures, books, etc., of national, scientific, or historic interest, given for national purposes.²

Objects of National Interest

The like articles, when enjoyed in kind by a person not competent to dispose thereof, are exempt from Estate Duty; but that duty attaches when the articles are sold or pass to some person competent to dispose of them.³ As to deaths on or after the 30th April, 1909, the exemption extends to Legacy and Succession Duty, takes effect whether the property is settled or not, and applies to property of artistic interest. In like cases, the duty is only chargeable when the property is sold, and then only in respect of the last death on which the property passed.⁴ And if the sale be made after the Finance Act, 1921, to the National Gallery, British Museum or certain other public institutions, no duty becomes payable on such sale, section 44 Finance Act, 1921.

Application for remission of the duty must be made to the Estate Duty Office.

¹ Sect. 15 (1) Finance Act, 1894. ² Sect. 15 (2) Finance Act, 1894.

³ Sect. 20 (1) Finance Act, 1896. ⁴ Sect 63 Finance Act, 1910.

In cases of persons dying after the 31st July, 1930, the Finance Act, 1930, section 40, makes the following amendment—

On the sale of any of the objects in question, the rate of Estate Duty shall be fixed by reference to the principal value of the estate passing on that death on which Estate Duty is leviable. Hitherto, the value of such objects was not aggregated with the rest of the estate but formed an "estate by itself" (see page 50). The value is still not to be added to the rest of the estate for the purpose of ascertaining the rate of Estate Duty, but the rate of Estate Duty fixed for the rest of the estate becomes applicable to the value of the objects when sold and the duty is charged on the proceeds of sale.

To take a practical example, an estate is valued at £190,000 excluding certain objects of national interest to which the section applies. The value of such objects is ignored and the rate of Estate Duty payable on the estate is 24 per cent. Upon the sale of the objects, the same rate of Estate Duty will apply.

This section obviates the necessity for a valuation of the objects at the time of the death, as the duty is now chargeable on the proceeds of sale.

Indian Pensions

(j) Pensions and annuities payable by the Indian Government to the widow or child of any deceased officer are exempt from Estate Duty.¹

¹ Sect. 15 (3) Finance Act, 1894.

Church Patronage

(k) Estate Duty is not payable in respect of any advowson or church patronage.¹

Where Probate or Account Duty Already Paid

(l) Estate Duty is not payable on the deceased's death in respect of personal property settled by a will or disposition made by a person dying before the 2nd August, 1894, in respect of which property Probate, Inventory (i.e. Scotch Probate Duty) or Account Duty has been paid or is payable, unless in either case the deceased was at the time of his death, or at any time since the will or disposition took effect had been, competent to dispose of the property.²

*In cases of deaths after the 15th August, 1914, this relief ceases, except where the previous duty has been paid on the death of one of the parties to a marriage, so far as regards the payment of Estate Duty on the death of the other party to the marriage.*³

Examples

To take a simple instance where the relief applies: A by his will leaves a sum of £10,000 to his son, B, for life, with remainder equally to such children of B as survive him. A dies in 1892, leaving personal estate only, no part of which is situate abroad, so that the whole £10,000 is attributable to personal property which has paid Probate Duty.

¹ Sect. 15 (4) Finance Act, 1894, referring to sect. 24, 16 & 17 Vict., c. 51, and see *Attorney-General v. Peek*, [1913] 2 K.B. 487 (C.A.).

² Sect. 21 (1) *ib.*

³ Sect. 14 Finance Act, 1914.

Upon B's death in 1900, he not being, nor having been at any time, competent to dispose of the £10,000, it does not pay Estate Duty.

But suppose that A leaves £100,000 personal estate all situate in this country and £50,000 real estate, and by his will directs a sale of his realty and personalty, and out of the proceeds the legacy of £10,000 is to be met. Here, in a strict course of administration, the £10,000 legacy is partly payable out of personal estate which has paid Probate Duty, and partly out of the proceeds of real estate which has not. The whole estate being £150,000, the part attributable to the proceeds of real estate is $\frac{50,000}{150,000}$ or one-third, which is liable, on B's death, to Estate Duty. But, in making such apportionment, care must be taken to ascertain with precision the amount of personalty which was actually settled by the testator's will and which has actually paid Probate Duty. Thus, if debts of £5,000 have been deducted before arriving at the amount on which Probate Duty was paid, it is clear that in making the apportionment the personalty which has actually paid Probate Duty must be diminished by £5,000. And the terms of the testator's will as to payment of legacies, administration expenses, etc., out of the mixed fund, or out of personalty alone, must be taken into account.

It makes no difference whether, as a matter of fact, the whole of £10,000 has been actually raised out of the £100,000 personalty; the strict course of administration must be followed.

The value of the £10,000, for Estate Duty purposes, or the investments representing the fund, must be taken as at the time of B's death.

In cases of deaths *before* the 30th April, 1909, the case already noticed¹ of *Attorney-General v. Dodington*² may give rise to exemption from Estate Duty. The following were the facts: By marriage settlement the wife's personal property was settled upon trust to pay the income to her for life, with remainder to her husband for life, with remainder to such persons as the wife should by deed or will appoint. The wife died before the Finance Act, 1894, leaving her husband surviving, and having appointed the trust funds by her will. Probate Duty was paid upon the trust funds on her death, after deduction of the value of the husband's life interest. The husband died after the Finance Act, 1894. It was held that no claim for Estate Duty arose upon the funds on the husband's death.

In cases of deaths after 29th April, 1909, the exemption only applies where the dead reversioner is the settlor.³

It must be specially noticed that the settlement must have been made by a person dying *before* the Finance Act, 1894. Thus, supposing A settles property upon himself for life, remainder to B. B dies before the Finance Act, and his estate includes his reversionary interest under the settlement, and Probate Duty is paid thereon. A dies *after* the Finance Act. Here, although the property has paid Probate Duty, it cannot claim exemption

¹ *Supra*, p. 30. ² (1897), 77 L.T.R. 299. ³ Sect. 55 Finance Act, 1910.

from Estate Duty on that account, seeing that A, the settlor, is a person dying *after* the Finance Act, 1894.

Sale or Mortgage of Reversion

(*m*) Where an interest in expectancy in any property has, before the 2nd August, 1894, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, when no other duty on such property is payable by the purchaser or mortgagee when the interest falls into possession, than would have been payable if the Finance Act, 1894, had not been passed.¹

Example

It is important to bear in mind this provision when dealing with cases of settlement funds in which beneficiaries have sold or mortgaged their expectant shares. In practice, however, such cases are gradually dying out.

Husband and Wife

(*n*) Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which has taken effect before the 2nd August, 1894, and on his or her death the survivor becomes entitled to the income of the property settled by such survivor, Estate Duty shall not be payable in respect of that property until the death of the survivor.²

¹ Sect. 21 (3) Finance Act, 1894. ² Sect. 21 (5) Finance Act, 1894.

Example

A concrete example may make this section a little clearer. By marriage settlement, dated 1870, a wife settles £1,000 upon trust for her husband for life, remainder to herself for life, remainder to the children of the marriage, whom failing, to the wife absolutely. The husband dies in 1896 leaving the wife surviving and children who have attained a vested interest in the trust funds. Estate Duty does not attach on the husband's death, but is deferred until the death of his wife. But this section does not apply where the surviving spouse becomes entitled to the *capital* of the funds. In the case cited above, if the issue of the marriage had failed, the wife, on death of her husband, would have been entitled to the *capital* of the funds. Estate Duty would then be payable on the husband's death.¹

It must be observed that the exemption conferred by this subsection is only applicable to dispositions which have taken effect *before* the 2nd August, 1894.

Enlargement of Interest

(o) Where a settlor, who is tenant for life, acquires by the death, on or after the 1st July, 1896, in his own lifetime, of a subsequent limited owner under the settlement, the immediate reversion or an absolute power to dispose of the whole property, the property shall not be deemed to pass

¹ *Attorney-General v. Strange* (1898), 78 L.T.R. 513.

on such death and consequently Estate Duty is not payable.¹

Such a "passing" would merely be an enlargement of the settlor's existing life interest into an absolute power to dispose of the property.

Reverter to Settlor

(p) Estate Duty is not payable where property reverts to a settlor in his lifetime on the death, on or after the 1st July, 1896, of a limited owner under the settlement who retains his interest to the entire exclusion of the settlor, and no other interest is created by the settlement, unless the limited owner had, prior to the disposition, been competent to dispose of the property.²

Example

The case of *Attorney-General v. Penrhyn*³ illustrates this exemption. By marriage settlement the wife assigned certain property to trustees, out of which they were to pay her £100 per annum, and the remainder of the income to her husband during his life; and, after the decease of either, to pay the whole income to the survivor for life, and, after the death of the survivor, to hold the capital in trust for the children of the marriage, whom failing, to his wife absolutely. The wife survived the husband, and there were no children of the marriage. On the husband's death it was held that Estate Duty was payable upon the whole trust funds, as

¹ Sect. 14 Finance Act, 1896.

² Sect. 15 Finance Act, 1896.

³ (1900), 83 L.T. 103.

there were other interests (i.e. in favour of the children of the marriage) created by the settlement, and the wife retained a benefit—£100 per annum—not subject to the life interest of the husband.

Wife Resuming Rents of Her Realty

(q) Estate Duty is not payable where the deceased was entitled in right of his wife to the rents of her real estate, and by his death, on or after the 1st July, 1896, she becomes entitled to the property in virtue of her former interest.¹

Such cases arise where the parties were married before the Married Women's Property Act, 1882, and the wife is entitled to real estate not settled to her separate use. The husband has the right to receive the rents, and, on his death, the wife resumes her former estate.

(r) See also the exemptions under *Attorney-General v. Beech* and *Re Townsend* (pages 24, 25).

(c) EFFECT OF PAYMENT OF ESTATE DUTY

Section 1 of the Finance Act, 1894, enacts that the existing duties mentioned in the First Schedule to that Act shall not be levied in respect of property chargeable with Estate Duty. Such existing duties are—

Reliefs from Certain Other Duties

(a) Probate Duty and (Scotch) Inventory Duty.²

(b) Account Duty.³

¹ Sect. 15 (4) Finance Act, 1896.

² See p. 2.

³ Sect. see p. 5.

(c) The "higher rate" Succession Duties.¹

(d) The Temporary Estate Duty.²

(e) *In certain cases* (see pages 118 and 131), the 1 per cent Legacy and Succession duties which would have been payable under the deceased's will or intestacy, or under his disposition or any devolution from him under which Estate Duty has been paid, or under any other disposition under which Estate Duty has been paid.

Where a person dies *on* or *before* the 1st August, 1894, the duties above-mentioned shall continue to be payable in like manner as if the Finance Act, 1894, had not been passed.³

So that, on deaths after 1st August, 1894, the Estate Duty supersedes Probate Duty, Account Duty and Temporary Estate Duty. It also exempts the property upon which it is paid from the "higher rates" Succession Duties.

As we shall see later⁴ the higher rates of Succession Duty were payable on deaths on or after the 1st July, 1888, in respect of property which had *not* paid Probate or Account Duty. Where such property *had* paid Probate or Account Duty, the lower rates of Succession Duty were chargeable. Similarly, where Estate Duty has been paid, the lower rates of Succession Duty are leviable upon the property. The point is important in connection with the exemption from Estate Duty allowed by section 21 (3) of the Finance Act, 1894.⁵ A reversionary interest in certain trust property is

¹ See p. 131.

² See p. 8.

³ Sect. 21 (2) Finance Act, 1894.

⁴ Page 131.

⁵ See "Exemptions" (*m*), p. 38.

bonâ fide sold before the Finance Act, 1894: consequently it is exempt from Estate Duty, but pays the same duty as if the Finance Act, 1894, had not been passed—in this case the *higher rate* of Succession Duty.

Relief from 1 per Cent Legacy and Succession Duties

With regard to cases not falling under section 58 of the Finance Act, 1910, the exemption of property paying Estate Duty from the 1 per cent Legacy and Succession Duty applies equally where both the duties arose under the same or different dispositions.

Estates sub £300 or £500—Fixed Duty may be Paid

Where the *gross* value of all the property, real and personal, in respect of which Estate Duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, exceeds £100, but not £300, a fixed duty of 30s. *may* be paid, and where it exceeds £300, but not £500, a fixed duty of 50s. *may* be paid. Where either of the said fixed duties is paid, and it is afterwards discovered that the gross value of the property *does* exceed £500, then the ordinary *ad valorem* duty must be paid, and no allowance whatever made for the fixed duty paid. But where 30s. has been paid, and it is discovered that 50s. should have been paid, the difference between the two duties only is payable.¹ Where, however, the deceased died on or after the 1st September, 1903,

¹ Sect. 16 (1) Finance Act, 1894.

and the Commissioners are satisfied that there were reasonable grounds for the original estimate of the value of the property, an allowance *may* be made for the fixed duty paid.¹

This section is extended in official practice to apply to cases where a *bonâ fide* mistake arose of not including property which should have been included in the affidavit; and not only where an error has been made in the value of the property included.

The provision for payment of these fixed duties only extends to cases where the *gross* value of the property does not exceed in value £300 or £500. Formerly any mortgage or charge created by the deceased himself could not be deducted in arriving at the gross value, but mortgages created by parties from whom the deceased acquired the property might be deducted, unless the deceased had covenanted to pay the debt. But now, under section 61 (2) of the Finance Act, 1910, charges created for the purpose of securing unpaid purchase money, or money borrowed for paying purchase money or charges for securing an advance made for the purpose of the purchase may be deducted.

Practice of Estate Duty Office

As a matter of practice, where the deceased's estate includes a policy of life assurance owned by him, deduction may be made in respect of any loan thereon upon either of the following conditions—

¹ Sect. 14 Revenue Act, 1903, 3 Edw. vii, c. 46.

(a) That the assignment was to the assurance office, as security for a loan made by it to the deceased, for his sole use and benefit, or

(b) That the assignment was to a third person, as security for a loan so made and that due notice of the assignment was given to the assurance office.

Relief from Other Duties where Fixed Duty Paid

Where the fixed duty of 30s. or 50s. has been paid, as above, neither Settlement Estate Duty, Legacy Duty, nor Succession Duty is payable under the deceased's will or intestacy in respect of that estate.¹

Interest in Fixed Duty Cases

Where the fixed duty of 30s. or 50s. is paid within twelve months of the death, interest on the duty is not charged.²

Estates sub £1,000 Relief from Other Duties

Where the *net* value of the property, real and personal, in respect of which Estate Duty is payable on the death of the deceased (exclusive of property settled otherwise than by the will of the deceased) does not exceed £1,000, and Estate Duty has been paid upon the principal value of that estate, neither Settlement Estate Duty, Legacy Duty, nor Succession Duty is payable under the deceased's will or intestacy in respect of that estate.³

¹ Sect. 16 (3) Finance Act, 1894.

² Sect. 16 (5) Finance Act, 1894.

³ Sect. 16 (3) Finance Act, 1894, and sect. 58 (2) Finance Act, 1910

Purely agricultural property, forming part of these (sub £1,000) estates, may still be valued in the method noted at page 75.¹

The above provisions as to payment of fixed duty and exemption from other duties where the net estate does not exceed £1,000, *only* apply to cases where the property, as already stated, is *exclusive of any property settled otherwise than by the deceased's will*. The exclusion is important, as various properties may pass on the deceased's death *not* under his will or intestacy, but which are not "settled" and must therefore be added to his free estate. "Settled" property is property which stands limited to or in trust for any persons by way of succession.² Only such property may be excluded in arriving at the gross amount of deceased's estate in order to settle the amount of fixed duty, or the *net* amount of his estate in order to claim the exemption from other duties by reason of its being under £1,000. Thus, a man's own absolute property on his death may be of the value of £250. But he may have given £1,000 in gifts *inter vivos* within the period from his death during which they attract Estate Duty. Consequently the value of the "unsettled" property in respect of which Estate Duty is payable on his death is £1,250, and the estate must pay *ad valorem* duty, and cannot claim the exemption from the other duties.

It may be added that upon the death of a tenant in tail in possession the property passing is regarded

¹ Sect. 61 (1) Finance Act, 1910.

² See p. 95.

as "settled" property for the purposes of the above-mentioned section (16) of the Act.

Allowance of Previous Duties Paid

The Finance Act, 1896, introduced an important modification by allowing as a deduction against Estate Duty upon settled property in certain cases, the prior duty which had already been paid upon it. Section 21 of that Act enacts that where on the death of a deceased person (dying after 1st July, 1896) Estate Duty becomes payable in respect of any property passing under a settlement made by will or disposition which took effect before the commencement of the Finance Act, 1894, and before that commencement any duty mentioned in paragraphs 3 to 5 of the First Schedule to the 1894 Act (viz. the higher rates of Succession Duty under the Customs and Inland Revenue Act, 1888, the Temporary Estate Duty and the 1 per cent Legacy and Succession Duties) has been paid or is payable under the same will or disposition on the *capital* value of the property, the Commissioners shall allow the duty so paid or payable as a deduction from the Estate Duty to the extent to which it has been paid or is payable in respect of the property on which Estate Duty is payable.

Example

The following is an example of the great majority of cases under which this allowance is made: A, dying in 1890, by will devises Blackacre upon trust for sale, the proceeds to his son, B, for life,

remainder equally to his children. B dies *after* the 1st July, 1896. Upon A's death Succession Duty is payable at the rate of $1\frac{1}{2}$ per cent upon the capital value of Blackacre or upon the proceeds of sale thereof, if actually sold. Upon B's death after the Finance Act, 1896, Estate Duty becomes leviable upon Blackacre or upon the investments then representing the proceeds of sale thereof. Let us assume that Blackacre has realised £2,000 which is invested upon mortgage. The Succession Duty paid on the capital has been £30. The Estate Duty, assuming the rate to be 3 per cent, is £60, against which the Succession Duty of £30 is allowed as a deduction, leaving £30 due.

In the case of similar property being devised to a person liable to $4\frac{1}{2}$ per cent Succession Duty, the allowance against Estate Duty would be the higher rate only, i.e. the $1\frac{1}{2}$ per cent, being the *additional* rate under the Customs and Inland Revenue Act, 1888.

The Finance Act, 1907 (section 15) simplifies the method of calculating these allowances by declaring that the deduction shall, instead of being the amount of the duty paid or payable, be the amount which would have been payable on account of the duty if the duty were calculated on the value of the property on which Estate Duty is payable: but the parties are given the option to require the Commissioners, on the first delivery of the account, to calculate the deduction as if this section had not passed.

The allowance is only to be made where the duty

has been paid upon the *capital* value of the property. Thus, in the above case, if Blackacre had been devised immediately to the life tenant and the trust for sale was only to take effect on his death, then the duty payable upon A's death would only have been calculated upon the value of the successor's life interest in the property and no allowance could be claimed against the Estate Duty.

The principle of allowance of duties previously paid on settled property was adopted by section 14 (b) of the Finance Act, 1914, which abolished, to a large extent, the relief from a second Estate Duty hitherto enjoyed by settled property. The section declares that on the first occasion on which Estate Duty becomes payable in respect of any property which would not have been payable but for the section, the amount of Settlement Estate Duty, if any, which has been paid in respect of that property, shall be allowed against the amount of Estate Duty payable on that occasion, and if it exceeds that amount, the excess shall be repaid to the estate. In addition, simple interest at 3 per cent per annum shall be calculated on the said amount of Settlement Estate Duty from 15th August, 1914, up to the date of the occasion (i.e. the date when the second claim for Estate Duty arose), and shall be paid to the several persons or their representatives who would have been entitled to the income arising from that amount, if that amount had on the 15th August, 1914, been added to the capital of the settled property. The amount

shall be divided amongst those persons or their representatives according to the several interests they would have had in that income.

The interest above-mentioned is, in practice, calculated at 3 per cent from 15th August, 1914, to 29th July, 1919, thenceforward at 4 per cent, but from 26th April, 1933, at 3 per cent.

(d) AGGREGATION

Aggregation is the adding together of all properties passing on a death and liable to Estate Duty in order to arrive at the rate of duty payable from the total so ascertained.

The subject must be dealt with under four heads—

(a) Aggregation in cases of deaths before the Finance Act, 1900 (9th April, 1900).

(b) The like after the Finance Act, 1900, and before the Finance Act, 1907 (19th April, 1907).

(c) The like after the Finance Act, 1907, and before the Finance Act, 1927 (29th July, 1927).

(d) The like after the Finance Act, 1927.

(a) *Aggregation before the Finance Act, 1900*

All Property Aggregable

By section 4 of Finance Act, 1894, all property passing on the death of the deceased in respect of which Estate Duty is leviable shall be aggregated so as to form one estate, and the duty shall be levied at the properly graduated rate on the principal value thereof.

With Certain Exceptions

But the following classes of property are not to be aggregated and are to form "estates by themselves."

Where Deceased Never had an Interest

(1) Property in which the deceased never had an interest.

Property Passing to Other than Spouses or Lineal Ancestors or Descendants

(2) Property passing, under a disposition not made by the deceased, immediately on his death to some person other than his wife (or husband) or his lineal ancestor or lineal descendant.

N.B.—If part of or a benefit in the property under such a disposition passes to the deceased's widow (or husband) or his lineal ancestors or descendants and part to others, such latter part is cut away from the former and not aggregated.

Small Estates

(3) The deceased's own free estate if the net value does not exceed £1,000.¹

Gifts to Nation

(4) Pictures, scientific collections, etc., given for national or public purposes upon which the Treasury has remitted the Estate Duty.²

¹ Sect. 16 (3) Finance Act, 1894, *supra*, p. 45.

² Sect. 15 (2) Finance Act, 1894.

Scientific Collections

(5) Pictures, scientific collections, etc., of national or historic interest, admitted to be such by the Treasury, passing on a death on or after the 1st July, 1896, and settled so as to be enjoyed in kind in succession by different persons.¹ This exemption is extended, as to deaths on or after the 30th April, 1909, to property whether settled or not and to property of artistic interest.²

Powers of Appointment

As to aggregation of property over which the deceased had a general power of appointment, regard must be had to whether it passes as "free estate" or "settled property." If the remainders over in default of appointment are to the deceased absolutely, or to his heirs, executors, or administrators, the effect of the gift is to make the deceased the absolute owner, and accordingly the property, the subject of the power, forms part of his free estate. And where the deceased exercises the power by his will, the property is treated as part of his "unsettled" estate.

Only One Aggregation: Timber, etc.

Property passing on death shall not be aggregated more than once,³ and growing timber on estates of persons dying after 29th April, 1909, is not taken into account in estimating the value of the estate for rate of Estate Duty.⁴

¹ Sect. 20 (1) Finance Act, 1896.

² Sect. 63 Finance Act, 1910.

³ Sect. 7 (10) Finance Act, 1894.

⁴ Sect. 9 Finance Act, 1912.

(b) *Aggregation after the Finance Act, 1900, and before the Finance Act, 1907*

This system of aggregation only applies to deaths *on or after* the 9th April, 1900, and *before* the 19th April, 1907. Under section 12 (1) of the Finance Act, 1900, it does not matter for aggregation purposes to whom the property passed upon the death. The second exception on page 31 (*supra*) has no effect in cases after the Finance Act, 1900, *but the 1st, 3rd, 4th, and 5th exceptions still remain.*

In lieu of the old system of aggregation according to whether the property passed to, or outside of, the deceased's own family, the Finance Act, 1900, introduced a system of *limited* aggregation in the following case—

Effect Thereof

Settled property, where the settlor died on or before the 1st August, 1894, and such property, if he had died after that date, would have been chargeable with Estate Duty on his, the settlor's, death: the effect of aggregation of any such property is not to increase the rate more than $\frac{1}{2}$ per cent.

Adverting to the table at page 55 (*infra*), (a) and (c) are not affected by the limited aggregation, both these classes of property being fully aggregable. At (c) the property is settled, but the settlor is the deceased, who has *not* died before the 1st August, 1894.

As to (b), the "remainder of Blackacre" and accumulations are still unaffected, as the exception from aggregation of property in which the deceased never had an interest is unaffected by the 1900 Act.

But as to the portion of Blackacre required to meet the deceased's £50 annuity, viz. £1,250, here the property is "settled," the settlor has died before the 1st August, 1894, and, if he had died after that date, this property would have been chargeable with Estate Duty on his death, he being the absolute owner thereof. All the conditions required by section 12 (1) of the Act are therefore fulfilled, and the £1,250 can claim limited aggregation. If it were an "estate by itself" the rate would be 3 per cent: if it were *fully* aggregable with (a) and (c) the rate would be 4 per cent: but it being liable to limited aggregation only, the original rate is not to be increased by more than $\frac{1}{2}$ per cent: consequently the proper rate chargeable is $3\frac{1}{2}$ per cent.

It will be noticed that in order to obtain the benefit of limited aggregation, the property must be *settled* property. As to what is settled property, see Notes on Settlement Estate Duty, page 95.

It must be added that section 12 (1) of the Finance Act, 1900, contains a proviso declaring that where an interest in expectancy in settled property has been *bonâ fide* sold or mortgaged for full consideration before the 9th April, 1900, then no other duty on such property is to be payable by the purchaser or mortgagee when the interest falls

into possession on a death on or after the 9th April, 1900, than would have been payable if the law as to aggregation had not been amended.

AGGREGATION TABLE UNDER THE 1894 AND 1900 ACTS

Class of Property	Value	Rate of Duty Payable as an Estate by Itself	Actual Rate Payable by Reason of Aggregation	
			Before F. A., 1900	After F. A., 1900
(a) The deceased's "free estate," i.e. his own property passing under his will or intestacy and any other property passing on his death not "settled," i.e. gifts <i>inter vivos</i> , etc.	£8,000	3 p.c.	4 p.c. Aggregable with (c). Total aggregation for rate, £13,000.	4 p.c. Limited aggregation with (b) (1), but fully aggregable with (c). Total aggregation for rate, £13,000, but for limited aggregation, £14,250.
(b) The deceased's father, who dies in 1890, settles by his will Blackacre upon trust to pay to deceased an annuity of £50 for life. Subject thereto, the rents are to accumulate, and on deceased's death Blackacre and accumulations of rents meanwhile are to go to deceased's brother. Blackacre produces £100 per annum, and its principal value is £2,500.				

AGGREGATION TABLE—*contd.*

Class of Property	Value	Rate of Duty Payable as an Estate by Itself	Actual Rate Payable by Reason of Aggregation	
			Before F. A., 1900	After F. A., 1900
(1) The portion, therefore, required to meet the annuity is $\frac{1}{2}$ = . . .	£1,250	3 p.c.	This portion remains 3 p.c. Property not passing to deceased's widow or his lineal ancestors or descendants.	3½ p.c. Limited aggregation though added to (a) and (c).
(2) The remainder of Blackacre = £1,250 and the accumulations = . . . 300	£1,550	3 p.c.	This portion remains 3 p.c. Property in which deceased never had an interest.	Unaffected by Finance Act, 1900. Property in which deceased never had an interest.
(c) The deceased by his marriage settlement settles a mortgage for £5,000 upon trust for himself for life, with remainder to his wife for life, with remainder to his children.	£5,000	3 p.c.	4 p.c. Aggregable with (a).	4 p.c. Fully aggregable with (a), limited aggregation with (b) (1).

(c) Aggregation after the Finance Act, 1907

The variation effected by the 1907 Act in the system of aggregation explained above is that, in the case of persons dying on or after the 19th April, 1907, settled property liable to limited aggregation under the 1900 Act shall, instead of being so aggregated, be treated as an estate by itself.¹

¹ Sect. 16 Finance Act, 1907.

(d) *Aggregation after the Finance Act, 1927*

The limited system of aggregation subsisting under section 16 of the Finance Act, 1907, is, by section 51 of the Finance Act, 1927, abolished in the case of persons dying after 28th July, 1927, with a proviso protecting purchasers and mortgagees of interests in expectancy sold or mortgaged before 11th April, 1927. The result is that the properties described in the table as liable to "limited aggregation" no longer enjoy the benefit, but attract the full rate of Estate Duty.

Property deemed to pass under sections 34 and 35 of the Finance Act, 1930, is, by such sections, an "estate by itself."

(e) *Transfer to a Company—Generally*

The main provisions of the Finance Act, 1930, are concerned with the charge of Estate Duty in respect of certain transactions entered into by a person during his lifetime which have hitherto resulted in the exemption, or at least the partial exemption, of his property upon his death. These transactions have, as a rule, taken the form of the transfer by a person of his estate to a "private company" in such circumstances that he has continued to enjoy the use of the estate, or received from the company certain payments or benefits commensurate with the income he had hitherto received. Upon his death, there was no "passing" of the property within the meaning of the Finance Acts, and so Estate Duty was not exigible. This exemption the 1930 Act withdrew, and

defined the "companies" concerned in the transaction.

Bonâ fide transfers on sale are excepted, and the benefits retained on transfer of the property are defined. If such benefits exceed, in the average during three years before the death, 50 per cent of the total income of the company, Estate Duty is payable upon the like proportion of the total assets of the company.

The method of computing the total income of the company and the total assets of the company is defined.

It is also enacted that where a deceased has, on or after the 1st August, 1918, transferred his life interest, and the remainderman has also transferred his interest to a company to which the Act applies, then the property shall still be deemed to pass on the life tenant's death. Provision is made for the valuation of the property and for cases where the company has, during the deceased's lifetime, sold or exchanged the property concerned.

The scale of duty payable under the Act is defined and powers of recovery given.

There then follows a section dealing with the valuation of shares in certain so-called "private companies," which shares are no longer to be valued in accordance with the provisions of section 7 (5) of the Finance Act, 1894 (see page 74), i.e. the "open market" value, but are to be valued by reference to the total assets of the company.

I. *Transfer of Property to a Company* (Section 34).**Transfer to a Company**

This extremely long and involved section of the Act seems to be capable of some clarification if it be read in conjunction with the Interpretation Section (38).

This section applies to cases of deaths of persons dying on or after the 1st August, 1930, who have, at any time after the 31st July, 1918—

(a) Made to a "Company" to which this part of the Act applies, any "transfer" as is specified; and

(b) Received within the "prescribed period" from the Company a "specified benefit."

"Company" Defined

A "Company" to which this part of the Act applies is (sect. 38) any body Corporate wheresoever incorporated, which either is not controlled by its shareholders or any class thereof or has not issued to the public more than half its controlling shares.

"Share" includes any interest whatsoever, and however named, analogous to a share, and "shareholder" shall be construed accordingly.

"Preference share" means a share the holder whereof is entitled to a dividend at a fixed rate only.

"Transfer" Defined

A "transfer" is (sect. 34 (2)) a transfer of the deceased's property which would be liable to Estate Duty on his death, but excepting—

(a) *Bonâ fide* sales where the consideration was received wholly for the deceased's benefit, and was satisfied by a capital sum of a fixed amount or by shares or debentures of the Company ;

(b) Transfers of a business, not being a business which substantially consists in holding, managing, etc., land in Great Britain ;

(c) Transfers of any property which under section 35 (*infra*) is deemed to pass on the death ;

(d) Transfers of patents or copyrights, or of any moveable tangible property except money and securities ;

(e) Transfers where either the deceased or the Company is acting as trustee, manager, etc.

“ Prescribed Period ” Defined

The “prescribed period” means (sect. 34 (6)) the period which—

(a) Ends on the date on which the last “accounting year” ends ; and

(b) Begins three years before that date, or, if the Company was not then in existence, on the day on which the Company came into existence.

“ Accounting Year ” Defined

The “accounting year” means (sect. 34 (6))—

(a) If the Company, has, at the time of the deceased's death, made up its accounts for a period of twelve months next preceding the death, a period of twelve months ending either on that date, or on the same day of the year in any previous year, and

(b) In any other case, a period of twelve months ending on such date within the twelve months next preceding the death as may be determined by the Commissioners of Inland Revenue or on the same day of the year in any previous year.

This definition is necessary in order to fix the "prescribed period" in cases of companies where the accounts are not made up to a fixed date annually, or where no accounts have been made up to a fixed date annually, or where no accounts have been made up at the time of the deceased's death. And (sect. 34 (5)), the Commissioners of Inland Revenue are empowered to make any necessary apportionments of income.

"Specified Benefit" Defined

The "specified benefit" means (sect. 34 (2) (1))

(a) Any payments made, whether for consideration or not, to or for the benefit of the deceased, except—

(1) Dividends in respect of shares in the Company;

(2) Interest on, and repayments in respect of, money lent to the Company;

(3) Payments of or on account of purchase money under a *bonâ fide* sale, where that purchase money is a capital sum of a fixed amount;

(4) Payments of or on account of royalties, not being royalties limited to cease at the death of the deceased; and

(b) Any right in or enjoyment of any land.

Against the "value" of a benefit consisting of a

payment a deduction shall be made for any income tax (other than sur-tax) borne by the deceased in respect of that payment, and the value of a benefit consisting of any right in or enjoyment of land shall be computed by reference to the annual value as ascertained for income tax, allowance being made for any rent paid by the deceased.

Example

Before going further, let us assume a case in which the section applies, and we can later consider the measure of taxation applicable.

A, the absolute owner of an estate worth, say, £200,000 has died on or after the 1st August, 1930. At some time after the 31st July, 1918, he has transferred the estate to a Company of that kind which is popularly known as a private company, and which, for the purpose of the Act, has already been defined (see *supra*). As consideration for the transfer there is allotted to him or his nominees (members of his family or others) a sum of cash and/or shares of the Company. But the articles of association provide that A shall have free occupation of the mansion house and receive a yearly sum sufficient for the upkeep thereof, and that he shall be governing director of the Company at a fixed or fluctuating salary. In such circumstances the conditions laid down by the Act apply, i.e. a transfer has been made to a company and benefits have been received by the transferor.

It will be observed that the consideration for the transfer has not been *wholly* satisfied by the capital

sum paid or shares transferred. In plain words, the consideration received by the transferor is not represented by tangible assets forming part of his estate.

Apart from the income derived from any shares allotted to the transferor, the benefits received by him amount to—

(a) £300 p.a., i.e. the income tax assessment of the mansion house;

(b) £1,200 p.a., the amount sufficient for the upkeep thereof; and

(c) £2,000 p.a. for fees payable as Governing Director.

Against the total (£3,200) of (b) and (c) income tax may be deducted.

Computation of Taxable Portion

The conditions imposed being thus fulfilled, the Act (sect. 34 (1) (ii)) provides that if the average of these benefits during the “prescribed period” (see page 60) exceeds 50 per cent of the “total income of the Company,” there shall be deemed to pass, for estate duty purposes, such sum, not exceeding the “value of the total assets of the Company,” as bears to the said value the same proportion as the said average.

“Total Income of Company” Defined

The “total income of the Company” means (sect. 34 (4)) the income computed in accordance with the provisions of the Income Tax Acts relating to Companies, provided that—

(a) No deduction shall be made for any payment made to or for the deceased's benefit, except dividends on preference shares in the Company and interest on money lent to the Company, *but*—

(b) Deductions may be made for—

(i) Income tax paid or borne by the Company ;
and

(ii) Interest on money lent to the Company ;
and

(iii) Dividends on preference shares ; and

(iv) Rents, royalties and other payments by the Company on which income tax is deducted at the source.

“ Total Assets of Company ” Defined

The “value of the total assets of the Company” means (sect. 38) the principal value ascertained in accordance with section 7 (5) of the Finance Act, 1894, i.e. the “open market value,” of all the assets of the Company as a going concern, including goodwill, after deducting therefrom—

(a) The par or redemption value, whichever is the greater, of any debentures and preference shares ;

(b) All debts of the Company *bonâ fide* incurred for consideration in money or money's value ;

(c) A just and fair computation for future contingent or uncertain liabilities ;

(d) Any reserve fund, separately invested, *bonâ fide* intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependents or relatives, and in no other manner.

Example (contd.)

Continuing the example given above, the benefits received by the deceased have totalled £3,500 p.a., but, with deductions for income tax allowable against the payments for upkeep of the mansion house and directors' fees, the net benefit to be computed is, say, £2,800 p.a.

The total income of the Company, computed as indicated, is £5,500 p.a., and the total value of the assets £200,000.

There is deemed to pass for Estate Duty purposes a figure representing $\frac{2,800}{5,500}$ of £200,000.

Non-aggregation

But it must be expressly noted that section 34 (7) of the Act provides that property becoming liable to Estate Duty by virtue of the provisions of section 34 of the Act shall be an "estate by itself" and shall not be aggregated with any other property. Such property therefore bears its own rate of Estate Duty, having regard only to its total value as ascertained in accordance with the provisions of the Act.

And double taxation is avoided by section 34 (1) (ii), which, in effect, allows deduction, against the computable value, for property already assessable to Estate Duty on the same death.

2. Transfer of Life Interest to a Company
(Section 35)

Life Interest Transferred to a Company

It has hitherto been doubtful whether property "passed," for Estate Duty purposes, on the death

of a life tenant where he, and the person entitled to the property on his death had joined together in assigning their respective interests to a "Company," although the life tenant had received from the Company an income which was commensurate with the value of his life interest. A "Company" has already been defined (see page 59).

Example

A common instance was where the tenant for life of an estate was in receipt of an income, derived from the estate, of, say, £3,000 p.a. He, and the person entitled on his death conveyed the whole estate to a Company upon such terms that the life tenant continued to receive his income during his lifetime, such income being covenanted to be paid to him by the Company. Upon the life tenant's death, the remainderman received a benefit to the extent of £3,000 p.a., but there being no charge of such amount upon the property conveyed to the Company, there was no taxable property passing.

Transferred Property Liable to Estate Duty

The section under review now imposes a charge of Estate Duty upon property passing in similar circumstances. It enacts that when the life tenant and the remainderman have transferred the property to a company to which the Act applies, then the property shall be deemed to pass for Estate Duty purposes on the life tenant's death in the same manner as if his interest had continued up to his death.

Exceptions

But the following exceptions are allowed where, viz.—

(a) The transfer was made before the 1st August, 1918; or

(b) The property was settled property and the deceased's interest would in any case have failed before it would have become an interest in possession; or

(This protects cases of transfer of life interests where the life interest is merely a contingent life interest.)

(c) The consideration payable to the deceased was satisfied otherwise than by an allotment of shares in the Company or the grant of an annuity or other periodical payments, not being payments on account of purchase money being a capital sum of fixed amount; or

(d) The deceased had at least three years before his death relinquished all interest in the property and had not at any time within those three years—

(i) the possession or enjoyment (except rack rental possession) of any part of the property,

(ii) any benefit secured to him by contract or otherwise in relation to the release of his interest,

And (iii) was not at any time within the said three years in receipt of or entitled to any payment from the Company, otherwise than in respect of debentures or loans or purchase money being a capital sum of a fixed amount.

It will thus be seen that in a transfer of property

to which the section applies, the life tenant must strip himself naked of all payments, by contract or otherwise, from the Company at least three years before his death. And so wide are the terms of the section, referred to at (d) (iii), that it would seem that even if the life tenant received director's fees from the Company, such would be considered a payment from the Company sufficient to render the property transferred liable to Estate Duty.

Sale or Exchange by Company

We have noted that in these cases of transfer of life interest the property itself is deemed to pass for Estate Duty purposes. But the Company to which it has been transferred may have *bonâ fide* sold or exchanged it for full consideration during the deceased's lifetime. In such cases, it is provided (sect. 35 (1) (d)) that the proceeds of the sale or exchange, or the property which at the time of death represents those proceeds, shall be deemed to pass.

Value of Property

As regards the value of property so passing, the following deductions are allowed (sect. 35 (2)) —

(a) any sum borrowed by the Company and applied in the improvement of the property, and not, at the death, repaid to the Company;

(This would seem to eliminate the deduction of any sums paid by the Company, out of income, for the improvement of the property.)

(b) A sum equal to the capital sum paid to the deceased as part consideration for the transfer;

(This allows a deduction for any cash payment made to the deceased on the transfer, whether such cash was in existence or represented by any assets at the time of the death);

And (c) where Estate Duty is payable on the death on any shares or debentures in the Company, a sum equal to the principal value of such of those shares or debentures as were transferred or allotted to the deceased in consideration of the transfer of the property.

(This only permits the deduction, apparently, of such part of the shares and debentures of the Company as already bears Estate Duty in the deceased's own unsettled estate.)

Non-aggregation

The property deemed to pass under this section (35) of the Act is, by section 35 (3), an estate by itself and not aggregable with any other property. This follows a similar provision in section 34 (7), (see *supra*, page 65).

3. Charge of Duty and Powers of Recovery (Section 36)

Charge of Duty

This section is concerned with the method in which the Estate Duty chargeable under the two preceding sections (34 and 35) shall be collected.

From the preceding remarks it should be clear that, prior to the present Act, a person might have divested himself of all interest in his property to a Company and, upon his death, no claim for Estate

Duty would arise. The present Act, now evolving a new charge for Estate Duty, must, of necessity, ear-mark the liability for such duty; as it is of course obvious that where the deceased has divested himself of all interest in an estate to a Company, there remain no assets in the hands of his executors or trustees available to meet the charge of Estate Duty imposed by the present Act.

The section (36) therefore provides that the Estate Duty payable under sections 34 and 35 shall be a debt due from the Company concerned to His Majesty, i.e. a Crown debt, and recoverable as such.

The Company concerned shall be accountable for the duty, and shall, for the purpose of raising and paying that duty, have "all the powers conferred on accountable persons by the principal Act" (Finance Act, 1894), i.e. facilities for raising the duty, rights of appeal, etc. (see sections 9 and 10 of the Finance Act, 1894), and if any part of the duty is paid by the executor of the deceased, it shall be repaid to him by the Company.

And where on the death of any person a claim for duty arises under any of the provisions of sections 34 and 35 of the Act, the Company concerned must notify the Commissioners of Inland Revenue of the death of the said person, and a penalty up to £500 is incurred for wilful default. This liability imposed upon a Company is not so terrifying as it appears, having regard to the fact that the executor of a deceased person must, under penalties for wilful default, specify all the property

in respect of which Estate Duty is payable on the death of the deceased (sect. 8, Finance Act, 1894).

The Commissioners of Inland Revenue are empowered to require companies, to which this part of the Act applies, to furnish them copies of balance sheets, profit and loss accounts and such other particulars as the Commissioners may reasonably require. Penalties, in the case of wilful default, are imposed upon the Company, its directors, manager, secretary, or other officer of the Company knowingly and wilfully authorising or permitting the default.

4. *Valuation of Shares in Certain Companies* (Section 37)

This section lays down a new principle of valuation of shares (not being preference shares) in Companies to which the Act applies.

If—

(a) there is deemed to pass, by virtue of the provisions of the Act, a sum of money computed by reference to the total assets of the Company (see section 34, *supra*); or

(b) the “control of the Company” was immediately before the death in the hands of the deceased;

then the principal value of the shares, for Estate Duty purposes, shall not be ascertained as provided by section 7 (5) of the Finance Act, 1894, i.e. the “open market value,” but shall be ascertained by reference to the “total assets of the Company” (see page 64).

In cases falling within par. (a) a proviso is inserted to avoid double taxation where a part of the total assets of the Company, together with part of its shares, become liable to Estate Duty on the same death.

“Control of the Company” Defined

The “control of the Company” means—

(a) Where by virtue of the shares controlled by the deceased he had the control of more than half the voting power of the Company; or

(b) Where he had, by virtue of the memorandum of association or articles of the Company, or any other instrument constituting the Company, the powers of a board of directors or a governing director, or the right to nominate a majority of the directors, or the power to veto the appointment of a director, or powers of the like nature; or

(c) Where he had otherwise the right to receive, or the power to dispose of, more than half the income of the Company.

It is expressly provided that this section shall not apply to shares which have, within twelve months of the deceased's death, been the subject of dealings on a recognised stock exchange in the United Kingdom or been quoted in the official list of such a stock exchange.

The previous method of valuation of property for Estate Duty is stated on page 74. Doubtless the Revenue found this method of valuation unsatisfactory in cases of shares of “one-man” companies and where the deceased had a controlling

interest. The present section now lays down the new principle of valuation in such cases.

5. *Interpretation* (Section 38)

This section has already been dealt with by incorporation in the previous remarks and requires no further comment.

6. *Surrender of an Annuity* (Section 39)

Before the passing of the present Act, cases had arisen in which a person entitled to an annuity charged upon a settled estate had surrendered his annuity to the estate owner, receiving in exchange a substituted annuity or other annual payment or relying upon the personal covenant or undertaking of the estate owner to continue the annuity. In such cases, there was no "passing" of the property or any part thereof upon the annuitant's death, and Estate Duty could not be levied.

It is now provided, in the case of persons dying on or after the 1st August, 1930, that property subject to an annuity, or other periodical payment, ceasing on the death, shall still be "deemed to pass" on the death (to the extent of the cesser of the annuity or other payment), notwithstanding that the annuity or other payment had been surrendered or disposed of, during the deceased's lifetime, to the person entitled to the property. And it is immaterial whether the surrender was made by the annuitant for value or not.

There are, however, excepted from the liability

to Estate Duty, cases of surrender or disposal of the annuity where the transaction was *bonâ fide* made three years before the death of the deceased, and the annuitant was not at any time within that period in receipt of any substituted annuity or other payment ceasing on his death, being an annuity or payment secured to him, by contract or otherwise, in return for his surrender.

(f) VALUATION OF PROPERTY

Principal Value

As we have already seen (*supra*, page 20), Estate Duty is leviable upon the *principal* value of the property passing. Section 7 (5) of the Finance Act, 1894, declares that the principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners of Inland Revenue, such property would fetch if sold in the open market at the time of the deceased's death. But in the case of persons dying on or after 30th April, 1909, the Commissioners shall fix the price of the property according to the market price at the time of the death, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at the same time: provided that where it is proved that the value has been depreciated by reason of the death of the deceased, the Commissioners in fixing the price shall take such depreciation into account.¹

As to the valuation of shares in "private"

¹ Sect. 60 (2) Finance Act, 1910.

companies, see "Transfer to a Company," *supra*, page 57.

Accretions to be Included

It follows that expenses incurred in connection with the sale or realisation of property cannot be allowed as a deduction against Estate Duty. All income accrued upon the property down to and outstanding at the time of the death is to be included.¹

Agricultural Property

Special provision is made by section 7 (5) of the Finance Act, 1894, for the valuation of purely agricultural property where no part of the principal value is due to the expectation of an increased income from such property (e.g. agricultural property which has some increased value as a prospective building estate). In such case, the principal value is not to exceed twenty-five times the annual value as assessed under Schedule A of the Income Tax Acts (i.e. the *gross* property tax assessment) after making such deductions as have not been allowed in that assessment, and are allowed under Succession Duty Act, 1853 (e.g. tithes not separately assessed, repairs, etc.), and making a deduction for expenses of management not exceeding 5 per cent of the annual value so assessed. Agricultural property is defined by section 22 (1) (g) of the Act as agricultural pasture and woodland, and also includes such cottages, farm buildings, farm houses, and mansion houses (together with the

¹ Sect. 6 (5) Finance Act, 1894.

lands occupied therewith) as are of a character appropriate to the property. In this connection, note section 18 of the Finance Act, 1911. This provision is abolished in cases of deaths on or after the 30th April, 1909,¹ but continues to apply² to the valuation of property consisting of a tenancy from year to year, including any tenancy subject to statutory conditions under the Land Law (Ireland) Acts, and to property forming part of the "fixed duty"³ and sub £1,000 estates.⁴

The Finance Act, 1925, which increased the rates of Estate Duty, conferred a benefit on agricultural property by declaring (sect. 23) that the increased rates should not apply to such property. In the result, at the present time, agricultural property bears the rate of Estate Duty (appropriate to the whole estate) as fixed by the Finance Act, 1919.

Valuation of Cesser of Interest

Where the claim for Estate Duty is in respect of a benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased, then (by section 7 (7) of the Finance Act, 1894)—

(a) If the interest extended to the whole income of the property, the value of the benefit shall be the principal value of that property; and

(b) If the interest extended to less than the whole income of the property, the value of the benefit shall be the principal value of an addition

¹ Sect. 60 (1) Finance Act, 1910.

² Sect. 61 (1) *ib.*

³ See p. 43.

⁴ See p. 45.

to the property equal to the income to which the interest extended, e.g. if the benefit be the cesser of an annuity of £20 per annum charged upon real estate, producing in all £80 per annum, then the value of the benefit is $\frac{20}{80}$ or one-fourth of the principal value of the real estate charged.¹

Crown Entails

Crown entails are valued according to the successor's life interest,² and the duty may be paid out of the corpus.³

Reversions

Estate Duty upon interests in expectancy may be paid in one of two ways⁴—

(a) With the duty in respect of the rest of the estate, in which case the interest is valued as it stands at the date of the deceased's death, a suitable deduction being made for the value of the life tenant's interest therein; or

(b) Payment of the duty may be deferred until the interest falls into possession, when the duty is paid upon the value of the fund as at the date of the life tenant's death. If payment of the duty be deferred, then for the purpose of determining the rate of Estate Duty upon the rest of the estate, the expectant interest is to be valued as at the time of the deceased's death. The rate of Estate Duty upon the expectant interest when it falls into

¹ And see *Lord Advocate v. Henderson's Trustees* (42 S.L.R. 720) where incumbrances affect the value of the interest.

² Sect. 5 (5) Finance Act, 1894.

³ Sect. 44 Finance Act, 1922.

⁴ Sect. 7 (6) Finance Act, 1894.

possession is to be calculated according to its value at that time, together with the value of the rest of the estate as previously ascertained.

The present official practice is to treat reversions as not aggregable with sub £1,000 estates.

DEBTS DEDUCTIBLE

The following deductions are allowed¹ against the principal value of property chargeable with Estate Duty—

Funeral Expenses

(a) Reasonable funeral expenses, debts, and incumbrances.

Bonâ fide Debts for Full Consideration

(b) Debts incurred by the deceased or incumbrances created (including mortgages or terminable charges)² *bonâ fide* for full consideration in money or money's worth wholly for the deceased's own benefit, which take effect out of his interest.³ But debts incurred for the purchase of any interest in expectancy in property passing on the death of a person dying after the passing (29th April, 1910) of the Finance Act, 1910, where any person whose interest in expectancy is so purchased becomes entitled to an interest in that property, are not allowable.⁴

¹ Sect. 7 Finance Act, 1894.

² Sect. 22 (1) (k).

³ As to the deduction of mortgage debts created by the tenant for life and the remainder-man, see *Earl Cowley v. Commissioners of Inland Revenue*, [1899] A.C. 193.

⁴ Sect. 57 Finance Act, 1910. For an illustration, see *Attorney-General v. Duke of Richmond*, [1909] A.C. 466, decided *before* this Act applied.

Covenant Debts

Estate Duty cannot therefore be evaded by a person incurring liabilities in respect of which he has received no consideration. Moreover, the deduction of covenant debts under voluntary settlements and like dispositions is not allowed. Thus, a deceased may have covenanted to pay, on his death, a sum, of, say, £1,000 to the trustees of his child's marriage settlement. If the sum has been actually paid in his lifetime, it no longer remains a debt due from his estate; but if not so paid, it cannot be deducted in the schedule of debts to his Inland Revenue affidavit, seeing that it is not a debt incurred wholly for his own use and benefit. Where such debts are due from the deceased, a full statement of the circumstances should be attached to his Inland Revenue affidavit. The effect of the non-deduction of such debts is that the fund has paid Estate Duty upon the deceased's death and may consequently be exempt from further payment of such duty during the continuance of the settlement under section 5 (2) of the Finance Act, 1894 (see page 28).

Surety Debts

(c) Surety debts where no reimbursement from any other person can be obtained.

Foreign Debts

(d) Debts due to persons resident out of the United Kingdom where contracted to be paid in the United Kingdom or charged on property situate within the United Kingdom.

Other foreign debts are, in the first instance, to be paid out of the foreign property, and if the same be insufficient, then the insufficiency may be allowed as a deduction against Estate Duty.

Expense of Realising Foreign Property, and—

(e) Additional expenses in administering or realising property incurred by reason of the property being situate out of the United Kingdom may be allowed, but not exceeding 5 per cent on the value of such property.

Foreign Death Duties

(f) Foreign death duties payable in respect of foreign property may also be allowed as a deduction against the value of such property.

(g) RATES OF DUTY

The rates of Estate Duty under section 17 of the Finance Act, 1894, are—

Principal Value of the Estate						Rate per cent
	£		£			
		Not above	100	.	.	0
Above	100	but not above	500	.	.	1
"	500	"	1,000	.	.	2
"	1,000	"	10,000	.	.	3
"	10,000	"	25,000	.	.	4
"	25,000	"	50,000	.	.	4½
"	50,000	"	75,000	.	.	5
"	75,000	"	100,000	.	.	5½
"	100,000	"	150,000	.	.	6
"	150,000	"	250,000	.	.	6½
"	250,000	"	500,000	.	.	7
"	500,000	"	1,000,000	.	.	7½
"	1,000,000	.	.	.	.	8

Section 12 of the Finance Act, 1907, amends these rates in cases of persons dying on or after the 19th April, 1907, thus—

Principal Value of the Estate				Rate per cent
From	£	to	£	
Above	100	but not above	150,000	Same as above
„	150,000	„	250,000	7
„	250,000	„	500,000	8
„	500,000	„	750,000	9
„	750,000	„	1,000,000	10
„	1,000,000	„	1,500,000	10 on 1,000,000—
„	1,500,000	„	2,000,000	and 11 on the remainder
„	2,000,000	„	2,500,000	and 12 on the remainder
„	2,500,000	„	3,000,000	and 13 on the remainder
„	3,000,000	„	„	and 14 on the remainder
„	„	„	„	and 15 on the remainder

The rates imposed by section 54 of the Finance Act, 1910, apply in cases of persons dying on or after 30th April, 1909, and are—

Principal Value of the Estate				Rate per cent
Above	£	but not above	£	
„	100	„	500	1
„	500	„	1,000	2
„	1,000	„	5,000	3
„	5,000	„	10,000	4
„	10,000	„	20,000	5
„	20,000	„	40,000	6
„	40,000	„	70,000	7
„	70,000	„	100,000	8
„	100,000	„	150,000	9
„	150,000	„	200,000	10
„	200,000	„	400,000	11
„	400,000	„	600,000	12
„	600,000	„	800,000	13
„	800,000	„	1,000,000	14
„	1,000,000	„	„	15

The rates imposed by section 12 of the Finance

Act, 1914, apply in cases of persons dying after the 15th August, 1914, and are—

Principal Value of the Estate						Rate per cent
From	£	to	£			Same as above
Above	40,000	but not above	60,000	.	.	7
"	60,000	"	80,000	.	.	8
"	80,000	"	100,000	.	.	9
"	100,000	"	150,000	.	.	10
"	150,000	"	200,000	.	.	11
"	200,000	"	250,000	.	.	12
"	250,000	"	300,000	.	.	13
"	300,000	"	350,000	.	.	14
"	350,000	"	400,000	.	.	15
"	400,000	"	500,000	.	.	16
"	500,000	"	600,000	.	.	17
"	600,000	"	800,000	.	.	18
"	800,000	"	1,000,000	.	.	19
"	1,000,000	.	.	.	.	20

Fractions

At the present time, i.e. after the Finance Act, 1900, Estate Duty is leviable upon the actual value of the property, but previously certain fractions were "adjusted." Thus—

(a) *Where the deceased died BEFORE the 1st July, 1896.* Any fraction of £10 in excess of £10, or of any multiple thereof, is to be increased to £10.

(b) *Where the deceased died ON or AFTER the 1st July, 1896, but before the 9th April, 1900.*¹ Any fraction of £100 in excess of £100, or of any multiple thereof, is to be disregarded, except that where the principal value of the estate exceeds £100, but does not exceed £200, the Estate Duty is to be £1. So that an estate of £10,099 is treated as £10,000,

¹ Sect. 17 Finance Act, 1896.

Where the rates of duty are increased, the amending Acts protect purchases and mortgages of interests in expectancy effected before the amending Acts respectively came into operation.

It has already been noted (page 75) that agricultural property still bears the lower rates under the Finance Act, 1919.

The rates imposed by section 19 of the Finance

Principal Value of the Estate				Rate per cent of Duty
Exceeding	£	100 and not exceeding	£	
		500 .	500 .	1
"	500	"	1,000 .	2
"	1,000	"	5,000 .	3
"	5,000	"	10,000 .	4
"	10,000	"	12,500 .	5
"	12,500	"	15,000 .	6
"	15,000	"	18,000 .	7
"	18,000	"	21,000 .	8
"	21,000	"	25,000 .	9
"	25,000	"	30,000 .	10
"	30,000	"	35,000 .	11
"	35,000	"	40,000 .	12
"	40,000	"	45,000 .	13
"	45,000	"	50,000 .	14
"	50,000	"	55,000 .	15
"	55,000	"	65,000 .	16
"	65,000	"	75,000 .	17
"	75,000	"	85,000 .	18
"	85,000	"	100,000 .	19
"	100,000	"	120,000 .	20
"	120,000	"	140,000 .	21
"	140,000	"	170,000 .	22
"	170,000	"	200,000 .	23
"	200,000	"	250,000 .	24
"	250,000	"	325,000 .	25
"	325,000	"	400,000 .	26
"	400,000	"	500,000 .	27
"	500,000	"	750,000 .	28
"	750,000	"	1,000,000 .	29
"	1,000,000	"	1,250,000 .	30
"	1,250,000	"	1,500,000 .	32
"	1,500,000	"	2,000,000 .	35
"	2,000,000 .	.	.	40

Act, 1925, apply in cases of persons dying after 29th June, 1925, and are shown on page 84.

The rates imposed by section 33 of the Finance Act, 1930, apply in cases of persons dying after 31st July, 1930, and are the same as under the 1925 Act so far as regards estates not exceeding £120,000. For estates above that figure the rates are—

Principal Value of the Estate				Rate per cent of Duty
Exceeding	£	120,000 and not exceeding	£	
			150,000 . . .	22
"	150,000	" "	200,000 . . .	24
"	200,000	" "	250,000 . . .	26
"	250,000	" "	300,000 . . .	28
"	300,000	" "	400,000 . . .	30
"	400,000	" "	500,000 . . .	32
"	500,000	" "	600,000 . . .	34
"	600,000	" "	800,000 . . .	36
"	800,000	" "	1,000,000 . . .	38
"	1,000,000	" "	1,250,000 . . .	40
"	1,250,000	" "	1,500,000 . . .	42
"	1,500,000	" "	2,000,000 . . .	45
"	2,000,000 . . .	" "	" . . .	50

(h) MISCELLANEOUS

Power to Transfer Land in Satisfaction of Duties

(h) The Commissioners may accept part of real (including leasehold) property in satisfaction of the Estate, Settlement Estate, or Succession Duty payable thereon.¹

Timber

Estate Duty upon timber sold with or apart from the land becomes payable on the sale thereof.²

¹ Sect. 56 Finance Act, 1910.

² Sect. 61 (5) Finance Act, 1910.

Interest on Duty

Estate Duty upon growing timber shall be paid upon the net sale moneys thereof, when felled, until the land on the death of some other person again becomes liable to Estate Duty. And interest at 3 per cent per annum is chargeable from the date of receipt of the sale moneys.¹

Interest at 3 per cent per annum is payable upon Estate Duty in respect of personal property from the day of the death, and upon Estate Duty on real property from the expiration of one year from the death.²

But if real estate be sold, or mortgaged, interest becomes payable from the date of completion of the sale or mortgage (*infra*).

Interest on Death Duties is increased to 4 per cent by section 30 of the Finance Act, 1919, so far as accruing due after 30th July, 1919, and reduced to 3 per cent as from 26th April, 1933.

Payment by Instalments on Real Property

Estate Duty upon real property (including land subject to an annuity under the Land Purchases (Ireland) Acts)³ may, at the option of the person delivering the account, be paid by eight equal yearly instalments or sixteen half-yearly instalments, with interest from the date at which the first instalment is due, and the first instalment shall be due at the expiration of twelve months from the death, and the interest on the unpaid portion of

¹ Sect. 9 Finance Act, 1912.

² Sect. 18 (1) Finance Act, 1896, and Sect. 43 Finance Act, 1933.

³ Sect. 61 (3) Finance Act, 1910.

the duty shall be added to each instalment and paid accordingly; but the duty for the time being unpaid, with such interest to the date of payment, may be paid at any time, and in case the property is sold, or mortgaged, shall be paid on completion of the transaction.¹

Estate Duty on unpaid purchase money of land sold under the Land Purchase (Ireland) Acts, may be postponed until the same is actually paid.²

On Annuities

Estate Duty due in respect of any annuity or other definite annual sum referred to in section 2 (1) (d) of the Finance Act, 1894,³ may be paid by four equal yearly instalments, the first of which shall be due at the end of twelve months from the date of the death. Interest on the unpaid duty is to be added to the second and subsequent instalments.⁴

Income Tax

No deduction for income tax upon interest upon Estate Duty can be made.⁵

Deduction of Colonial Duty

Section 20 of the Finance Act, 1894, enacts that where the Commissioners are satisfied that, in a British possession to which that section applies, duty is payable by reason of a death in respect of

¹ Sect. 6 (8) Finance Act, 1894, sect. 17 (3) Law of Property Act, 1925, and Sect. 73(6) Land Registration Act, 1925.

² Sect. 61 (4) Finance Act, 1910.

³ See p. 23.

⁴ Sect. 16 Finance Act, 1896.

⁵ Sect. 18 (1) Finance Act, 1896.

any property situate in such possession and passing on such death, they shall allow a sum equal to the amount of that duty to be deducted *from the Estate Duty payable* in respect of that property on the same death.

The section has been applied to the following possessions: Alberta, Australian Commonwealth (the Federal Duty), Australia (South), Australia (Western), Bahamas, Barbadoes, Bermudas, British Columbia, British Guiana, *Cape of Good Hope*,¹ Ceylon, Falkland Islands, Fiji, Gambia, Gibraltar, Gold Coast, Grenada Island, Hong Kong, India (not including the Feudatory Native States), Jamaica, Labuan, Lagos (now known as the Colony of Nigeria), Leeward Islands, Malay States, Manitoba, Mauritius, *Natal*,² New Brunswick, Newfoundland, New South Wales, New Zealand, Nova Scotia, Ontario, Papua, Quebec,³ Saint Lucia, Sierra Leone, Somers Island, Straits Settlements, Tasmania, Trinidad, and Tobago, Victoria, and *Yukon Territories (Canada)*,⁴ and also (under the terms of the Foreign Jurisdiction Act, 1913) to East African Protectorate (now Kenya), Gambia Protectorate, Nyasaland Protectorate, Southern Rhodesia, Swaziland, Uganda Protectorate, *Weihaiwei*,⁵ and Zanzibar.

Relief from double taxation as regards property situated in Northern Ireland is given by the Government of Ireland Act, 1920, section 28; and

¹ Revoked as to deaths after 31st Dec., 1908.

² Revoked as to deaths after 30th June, 1922.

³ Revoked as to deaths after 30th Jan., 1930, but revived as to deaths after 1st July, 1932.

⁴ Revoked as to deaths after 29th Oct., 1931.

⁵ Revoked as to deaths after 6th Jan., 1931.

as regards property in the Irish Free State by the Irish Free State (Consequential Provisions) Act, 1922, section 5, and Part II of the Schedule to the Relief in respect of Double Taxation (Irish Free State) Declaration, 1923.

Parties Accountable

The deceased's executor (such term also including administrator) is accountable for Estate Duty on all the personal property of which the deceased was competent to dispose at his death, and *may* pay the Estate Duty in respect of any other property passing on the death, which by virtue of any testamentary disposition of the deceased is under the control of the executor, or, in case of property not under his control, if the persons accountable for the duty in respect thereof request him to make such payment. The executor shall also specify in appropriate accounts annexed to the Inland Revenue affidavit all the property in respect of which Estate Duty is payable on the death.¹

Where the executor is not accountable for the Estate Duty, then every person to whom the property passes for any beneficial interest in possession, and also the trustee, guardian, etc., thereof, is accountable.²

But where the deceased died on or after the 1st January, 1926, the executor is also accountable for the Estate Duty upon land in England and Wales (including settled land) which devolves upon

¹ Sects. 6 (2), 8 (3) and 22 (1) (d) Finance Act, 1894.

² Sect. 8 (4) Finance Act, 1894.

him by virtue of any statute or otherwise (Law of Property Act, 1925, sect. 16 (1)).

In the case of property transferred to a company, the company is accountable for the duty. (See page 70.)

The Estate Duty upon objects of national interest, etc., as at page 33, is to be accounted for by the person who sells or becomes competent to dispose of them.¹

Reduction of Full Amount of Duty where Margin Above the Limit of Value is Small

Section 13 (1) of the Finance Act, 1914, provides that the amount of Estate Duty payable on an estate at the rate applicable thereto under the scale of rates of duty shall, when necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the estate exceeds the value on which the highest amount of duty would be so payable at the lower rate.

Thus an estate of £5,040 would pay, but for this provision, Estate Duty at 4 per cent = £201 12s., but now actually pays 3 per cent on £5,000 = £150 plus the excess (£40) over £5,000, total £190.

Relief in Respect of Quick Succession

Section 15 of the same Act allows reductions of Estate Duty graduated from 10 to 50 per cent upon property consisting of land or a business which

¹ Sect. 20 (2) Finance Act, 1896.

has already paid Estate Duty and within five years again becomes liable to such duty.

See also "Estate Duty Forms," page 146.

TABULAR SUMMARY OF THE FINANCE ACTS
(ESTATE DUTY)

Property Chargeable	References		Exceptions	Leading References	
	Act	Page		Act	Page
1. All property, real or personal, settled or not settled, passing on the death.	§ 1, F. A., 1894.	20	1. (a) Property of which deceased was trustee for another. The disposition either not made by deceased, or made by him more than twelve months ¹ before his death, and possession <i>bonâ fide</i> assumed to deceased's entire exclusion. (b) <i>Bonâ fide</i> purchases, falling in of leases for lives granted for full consideration. (c) Where Estate Duty already paid since settlement, but only in certain cases after 15th August, 1914. (d) Property passing on death of beneficiary under settlement before his interest has fallen into possession. (e) Property of common seamen, marines or soldiers slain or dying in His Majesty's service. Special exemption (at option of Treasury) in cases of officers and soldiers dying on active service.	§ 2 (5), F. A., 1894. § 3 (1) <i>ibid.</i> § 5 (2), <i>ibid.</i> § 14, F. A., 1914. § 5 (3), F. A., 1894. § 3 (1), <i>ibid.</i> § 14, F. A., 1900.	

¹ Or three years if Finance Act, 1910, applies.

TABULAR SUMMARY OF THE FINANCE ACTS
(ESTATE DUTY)—*Continued*

Property Chargeable	References		Exemptions	Leading References	
	Act	Page		Act	Page
			(f) Special exemption (at option of Treasury) in cases of pictures, etc., given for national purposes.	§ 15 (2), F. A., 1894.	
			(g) Indian officers' pensions.	§ 15 (3), <i>ibid.</i>	
			(h) Advowsons or church patronages	§ 15 (4) <i>(ibid)</i>	
			(i) All estate not exceeding £100 in value.	§ 17, <i>ibid.</i>	
			(j) Settled property which has already paid Probate or Account Duty, but only in certain cases after 15th August, 1914.	§ 21 (1), <i>ibid.</i> § 14, F. A., 1914.	
			(k) Property passing on deaths before F. A., 1894.	§ 21 (2), F. A., 1894.	
			(l) <i>Bona fide</i> sales or mortgages before F. A., 1894.	§ 21 (3), <i>ibid.</i>	
			(m) Property passing to survivor of husband or wife where survivor takes income of property settled by such survivor.	§ 21 (5), <i>ibid.</i>	
			(n) Property passing being merely an enlargement of settlor's interest.	§ 14, F. A., 1896.	
			(o) Property passing by reason only of reverter to settlor in his lifetime.	§ 15 (1), <i>ibid.</i>	
			(p) Reverter of rents of realty to wife on husband's death.	§ 15 (4), <i>ibid.</i>	
			(q) Scientific, etc., collections, admitted by the Treasury to be such, while enjoyed in kind by a person not competent to dispose thereof.	§ 20 (1), <i>ibid.</i>	

TABULAR SUMMARY OF THE FINANCE ACTS
(ESTATE DUTY)—*Continued*

Property Chargeable	References		Exceptions	Leading References	
	Act	Page		Act	Page
			And whether settled or not.	§ 63, F. A., 1910.	
			Or if sold to certain public bodies.	§ 44 F. A., 1921. and § 40 F. A., 1930.	
			(r) <i>Bona fide</i> surrenders of life interests more than <i>twelve months</i> ¹ before the death.	§ 11 (1), F. A., 1900.	
			(s) Where the passing is a mere acquisition of the corpus by the beneficiaries who had hitherto been in receipt of the income.	<i>Re</i> Townsend.	
1 (a) Property passes on the death of a life tenant or other limited owner, notwithstanding he has surrendered his interest to the remainder-man; unless such surrender has been made more than <i>twelve months</i> ¹ before his death, and to his entire exclusion.	§ 11, F. A., 1900.	24	(t) Timber, unless and until sold.	§ 9, F. A., 1912.	
2. Property of which deceased competent to dispose.	§ 2 (1) (a), F. A., 1894.	20	2. (a) Foreign realty.	§ 2 (2), F. A., 1894.	
3. Property in which deceased or any other person had an interest ceasing on death of deceased.	§ 2 (1) (b), <i>ibid.</i>	21	(b) Foreign personalty where deceased died domiciled abroad.		
			3. (a) The only interest is as holder of an office, recipient of benefits of charity or corporation sole.	§ 2 (1) (b), <i>ibid.</i>	
			(b) See "Exemptions," at 1, <i>supra</i> .		
4. Property which would have been liable to Account Duty, including—	§ 2 (1) (c), <i>ibid.</i>	4.			

¹ Three years if Finance Act, 1910, applies.

TABULAR SUMMARY OF THE FINANCE ACTS
(ESTATE DUTY)—*Continued*

Property Chargeable	References		Exemptions	Leading References	
	Act	Page		Act	Page
(a) Death-bed gifts.					
(b) Gifts <i>not bonâ fide</i> made more than twelve months ¹ before death of deceased, and gifts with reservation.			(b) Wedding presents, gifts part of deceased's normal expenditure, and gifts not exceeding £100.	§ 59 (2), F. A., 1910.	
(c) Joint investment by deceased and another, so that beneficial interest passes to survivor.					
(d) Property under voluntary settlements where by an interest is reserved to settlor ceasing on his death, or he has reserved right of revocation.					
5. Annuities or other interests purchased by deceased, so that a beneficial interest accrues on his death.	§ 2 (1) (d), <i>ibid.</i>	23	5. A single annuity not exceeding £25.	§ 15 (1), F. A., 1894.	
6. Property of which deceased was tenant in tail.	§ 22 (2) (a), <i>ibid.</i>	20			
7. Money which a person has a general power to charge on property.	§ 22 (2) (c), <i>ibid.</i>				
8. Property transferred to a company.	§§ 34, 35 F. A., 1930.				
9. Property subject to an annuity which has been surrendered.	§ 39 <i>ibid.</i>		9. The surrender has been made three years before the death and no substituted payment is enjoyed.	§ 39 F. A., 1930.	
			10. Land given to National Trust, etc.	§ 40, F. A., 1931.	
			11. Saving Certificates held by persons domiciled in Channel Islands or Isle of Man.	§ 41, <i>ibid.</i>	

¹ Three years if Finance Act, 1910, applies.

CHAPTER III

NOTES ON SETTLEMENT ESTATE DUTY

ALTHOUGH this duty is no longer payable on the estates of persons dying after 11th May, 1914, it is necessary to give it some consideration as it forms the subject of an allowance against the Second Estate Duty imposed upon settled property by the Finance Act, 1914.¹ Moreover, as explained later, it is returnable when paid under certain contingent settlements.

When Payable

The duty, defined by section 5 (1) of the Finance Act, 1894, as "a further Estate Duty," is only payable in cases of deaths of persons dying *after* 1st August, 1894, and, as stated above, ceases to be payable in respect of the estates of persons dying after 11th May, 1914.¹

Upon What Property

It is payable in respect of all property, in respect of which Estate Duty is payable, which is "settled" by the will of the deceased, or having been settled by some other disposition passes under that disposition on the death of the deceased to some person not "competent to dispose" of the property.²

¹ Sect. 14 Finance Act, 1914.

² Sect. 5 (1) Finance Act, 1894.

What is "Settled Property" ?

"Settled property" is defined by section 21 (1) as "property comprised in a settlement" and a "settlement" is defined as "any instrument, whether relating to real property or personal property, which is a settlement within the meaning of section 2 of the Settled Land Act, 1882, or if it related to real property would be a settlement within the meaning of that section, and includes a settlement effected by a parol trust."

Turning to section 2 of the Settled Land Act, 1882, we find that "any deed, will . . . or other instrument . . . under or by virtue of which . . . any land, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of succession, creates or is . . . a settlement."

The expression "competent to dispose" has already been defined.¹

Section 21 (4) directs that the duty shall not be payable in respect of property settled by a disposition which has taken effect before 2nd August, 1894.

To sum up the foregoing it may be said generally that Settlement Estate Duty is payable—

(a) Upon property paying Estate Duty which passes under a will of a deceased dying after 1st August, 1894, and before the 12th May, 1914, to a person for life or some other interest under which he has no power to dispose of a beneficial interest in the corpus of the property.

¹ *Supra*, p. 20.

(b) Upon property paying Estate Duty passing under a disposition, in writing or otherwise, made after the 1st August, 1894, to a person for life or other interest as above; and

(c) Upon property paying Estate Duty which passes under a will as at (a) or a disposition as at (b) and stands limited by such will or disposition to any persons by way of succession.

Similar to Estate Duty

It will be noticed that Settlement Estate Duty only attaches to property in respect of which Estate Duty is payable, so that where the property is exempt from Estate Duty or only liable in certain circumstances, such as, for instance, timber if and when sold, the Settlement Estate Duty does not attach or attaches at the same time and under the same conditions as the Estate Duty.

And so Incidents Attaching to Payment of Estate Duty Apply

The following incidents attaching to payment of Estate Duty therefore apply to Settlement Estate Duty, viz.—

(a) The property liable must be valued as at the date of the deceased's death.

(b) Interest at 3 per cent (4 per cent from 30th July, 1919 and 3 per cent from 26th April, 1933, Finance Act, 1933, section 43) upon the duty must be paid—calculated upon personalty from the day of the death, and upon realty from the expiration of twelve months from the death, or previous sale.

(c) The Settlement Estate Duty upon realty may be paid by instalments as in the case of Estate Duty.¹

(d) The like duty upon interests in expectancy may be paid at once or when the interest falls into possession.²

Contingent Settlements

The state of facts as at the date of the deceased's death is the guide as to whether Settlement Estate Duty is payable. Consequently the duty is payable upon property *contingently* settled.

Example

Thus, a testator gives all his property to such of his sons and daughters who attain twenty-one years, the daughters' shares to be settled upon them for life, with remainders to their children, etc., but the sons' shares to be paid to them absolutely upon attaining twenty-one. At the time of his decease *all* his sons and daughters are under twenty-one years of age. Here the whole estate, sons' as well as daughters' shares, is settled: all the sons may die under twenty-one, in which case the daughters attaining twenty-one take the whole settled estate, which is thus contingently settled.³

Annuities

Where a testator bequeaths annuities to persons

¹ See p. 86.

² See p. 77.

³ *Attorney-General v. Fairley* (1897), 76 L.T. 526.

for their respective lives and directs that, to produce such annuities, sufficient capital shall be set aside, and, in the meantime, the annuities shall be paid out of the income or capital of his residuary estate, then Settlement Estate Duty is payable upon the capital sums so set apart to meet the annuities.¹

The duty is claimed in similar cases to the above where the direction to pay the annuity out of income is clearly implied by the provisions of the will. But where the annuity is given *simpliciter* and payment of it is charged upon real or leasehold property, the implication that the testator intended it to be paid out of the income of such property is not sufficient to make Settlement Estate Duty payable upon so much of the charged property as is necessary to meet the annuity.

Joint Interests

Where property passes to two persons during their joint lives, and, on the death of either, to the survivor absolutely, Settlement Estate Duty as a matter of practice is claimed upon one moiety only as absolutely settled. One-half of the property must eventually go absolutely to the person who has been enjoying the life interest, but the other half goes to a person who may or may not succeed to it. Similarly, if the passing is to three persons instead of two, the Settlement Estate Duty claim is restricted to two-thirds; and if to four persons, to three-fourths and so on.

¹ *Attorney-General v. Owen* (1899), 81 L.T. 121.

EXEMPTIONS

Settlement Estate Duty is *not* payable—

Husband or Wife

(a) Where the *only* life interest is that of the husband or wife of the deceased.¹

Small Estates

(b) Where the whole of the deceased's free estate does not exceed £1,000 in value.²

Disposition Before Finance Act, 1894

(c) Where the disposition took effect before 2nd August, 1894.³

Where Already Paid During the Settlement

(d) Where Settlement Estate Duty has already been paid during the continuance of the settlement.⁴

Crown Entails

(e) Where lands or chattels are settled by Act of Parliament or Royal grant.⁵

Annuities *Simpliciter*

(f) Upon annuities *simpliciter*, i.e. where there is no expressed or implied charge of the annuity upon the income of any specific property.

¹ Sect. 5 (1) Finance Act, 1894.

² Sect. 16 (3) Finance Act, 1894, and see p. 45.

³ Sect. 21 (1) (4) Finance Act, 1894.

⁴ Sect. 5 (1) Finance Act, 1894.

⁵ Sect. 5 (5) Finance Act, 1894.

Entails

(g) Upon real estate devised by the will of the deceased immediately in tail. Here the tenant in tail is a person "competent to dispose," and Settlement Estate Duty is not payable upon the death of the deceased.

Powers of Appointment

(h) Upon property given to a person for life and on his death to such persons as he may appoint. Here the beneficiary is "competent to dispose."

Death After Finance Act, 1914

(i) In cases of deaths after the 11th May, 1914.¹

Return of Settlement Estate Duty

Section 14 of the Finance Act, 1898, declares that with regard to Settlement Estate Duty paid in respect of any property *contingently* settled, where it is thereafter shown that the contingency has not risen, and cannot arise, the said duty shall be repaid.

This provision *only* applies to cases of deaths occurring after the 1st July, 1898, i.e. the commencement of the Finance Act, 1898.

Example

The case of *Attorney-General v. Fairley*, already cited,² may be taken as an illustration. In that case, the portion of the deceased's property which eventually passes to his sons if they attain twenty-one is contingently settled on the daughters. As

¹ Sect. 14 Finance Act, 1914.

² *Supra*, p. 98.

each son attains twenty-one, he acquires a vested interest in his share, and the contingency of his share passing over to the daughters and becoming settled upon them for their lives has not arisen and cannot arise. There is, therefore, a claim for the return of Settlement Estate Duty paid in respect of the share of each son who attains twenty-one years of age.

Incidence of the Duty

Settlement Estate Duty leviable in respect of a legacy or other personal property settled by the will of the deceased shall (unless the will contains an express provision to the contrary) be payable out of the settled legacy or property in exoneration of the rest of the deceased's estate.¹ This applies to cases of deaths on or after the commencement of that Act, viz., 1st July, 1896.²

Duty a Charge Upon Realty

Settlement Estate Duty upon real property is a charge upon such property in the same manner as Estate Duty; and, like Estate Duty, is primarily payable out of the property in respect of which it emerges.

Rate of Duty

The rate of Settlement Estate Duty is 1 per cent, increased to 2 per cent in cases of deaths on or after the 30th April, 1909.³

¹ Sect. 19 (1) Finance Act, 1896.

² *In re Maryon-Wilson, Wilson v. Maryon-Wilson*, [1900] 1 Ch.

³ Sect. 54 Finance Act, 1910.

Fractions

For purposes of calculation of values for payment of Settlement Estate Duty the same rules apply with regard to fractions of £10 in cases of deaths before 1st July, 1896, and with regard to fractions of £100 in cases of deaths on or after 1st July, 1896, and before 9th April, 1900, as in the case of Estate Duty.¹

Allowance of Stamp Duty

The *ad valorem* Stamp Duty (if any) charged on a settlement may be deducted from the Settlement Estate Duty payable thereunder.² To obtain such deduction, the settlement itself must be produced in verification.

Return of Duty where Second Estate Duty Payable

In cases of deaths after 15th August, 1914, on the first occasion where a second Estate Duty is payable in the circumstances detailed at pages 26 and 30, the amount of Settlement Estate Duty which may have been paid in respect of the property is to be allowed against the Estate Duty payable on that occasion, and if it exceed the amount, the excess shall be repaid with interest on the amount of Settlement Estate Duty from 15th August, 1914.³ And see "Settlement Estate Duty Forms," page 186.

¹ *Supra*, p. 82.

² Sect. 5 (4) Finance Act, 1894.

³ Sect. 14 (b) Finance Act, 1914.

CHAPTER IV

NOTES ON LEGACY DUTY

Legacy Duty

THIS duty is mainly governed by the provisions of 36 Geo. III., c. 52.

What is a Legacy ?

Section 7 of that Act defined a legacy ; but such definition was superseded by section 4 of 8 & 9 Vict., c. 76, which declares legacies to include—

(a) Gifts by will or testamentary dispositions payable out of personal estate of any person, or out of any personal estate of which such person has power to dispose, or payable out of or charged upon his real estate or out of real estate of which he has power to charge, or out of moneys to arise from sale or mortgage of any such real estate ; and

(b) Death-bed gifts.

Leaseholds are not now liable to Legacy Duty ; they are especially exempted from this duty by section 19 of the Succession Duty Act, 1853, and accordingly become chargeable with Succession Duty.

Estates *pur autre vie* applicable by law as personal estate are liable to Legacy Duty under section 20 of 36 Geo. III., c. 52.

Foreign Domicile

If the deceased be domiciled abroad at the time of his death no Legacy Duty is payable, whether

his property be situate in the United Kingdom or not.¹

Powers of Appointment

It will be noticed that the definition of a legacy includes property appointed by the deceased under a general power of appointment. Such appointed property is, therefore, chargeable with Legacy Duty under the will of the person exercising the power of appointment.

But if the deceased have only a limited power of appointment his exercise of such power is read into the instrument creating the power, and the Legacy Duty chargeable according to the relationship subsisting between the creator of the power and the appointees. Thus, A by will gives £1,000 to his brother, B, for life, with remainder to such of the children of B as he may by will appoint, and, in default of appointment, to C, a stranger in blood to A. B dies, having by will appointed the fund equally to all his children. The children must pay Legacy Duty at the rate of 3 per cent (or 5 per cent if A died on or after the 30th April, 1909²) as deriving the fund from A and not from their father, B.³

And see also page III, Rule 8.

Legacies Out of Real Estate

As regards legacies charged upon or payable out of real estate, or the proceeds thereof, such are

¹ *Thomson v. Advocate-General* (1845), 13 Sim. 153.

² Sect. 58 Finance Act, 1910.

³ *Attorney-General v. Pickard* (1838), 3 M. & W. 552.

now chargeable with Succession and not Legacy Duty under section 21 (2) of the Customs and Inland Revenue Act, 1888. This distinction is now practically immaterial (except where a conflict arises between Legacy and Succession Duty, as to which see page 128), the rates of duty payable being the same, but it was highly important (as we shall see later) in cases of deaths on or after the 1st July, 1888, and before the Finance Act, 1894, as these legacies became liable to a higher rate of duty.

When Duty Payable

Legacy Duty becomes payable upon the payment or other satisfaction of the legacy, or upon the retainer of the property by the executor or administrator for the benefit of the person entitled.¹

The Duty is Cumulative

It must be remembered that Legacy Duties are cumulative; the duty is payable under the will or intestacy of every person through whose estate the property passes, even though such person may not have lived to enjoy it.²

Example

Thus, where a legacy is given to A for life, with remainder equally to B and C, both of whom predecease A, bequeathing all their property to D, the fund not only pays any Legacy Duty under the wills of B and C, but also Legacy Duty upon A's

¹ 36 Geo. III, c. 52, sect. 6.

² *Attorney-General v. Maxwell* (1860), 10 Ir. C.L.R. 262.

death as falling into the respective estates of B and C. There is no question as in the case of Succession Duty, of the claims for duty under the wills of B and C displacing the claim under the original will.

Rules for Calculation of the Duty

As already stated, where a legacy is given immediately by will to the legatee the duty is payable upon its value at the date when it was paid to the legatee or set aside for his benefit. But as to legacies given by way of annuity or to different persons in succession and the like, certain rules as to calculation and payment of the duty are laid down by 36 Geo. III, c. 52.

On Annuities

1. As to legacies given by way of annuity, etc. (Section 8).

Such legacies, whether payable for any life or lives, or for years determinable on any life or lives, or for years or other period of time, shall be calculated and the duty thereon charged according to the tables annexed to the Act. The tables annexed to the Succession Duty Act, 1853, have since been substituted.

The duty thereon may be paid by four yearly payments, the first payment to be made before or on completing the payment of the first year's annuity.

If an annuity determine by the death of any person before four years' payment shall become due, then the duty is payable in proportion only

to the payments of the annuity actually accrued due.

Contingent annuities are calculated as if there were no contingency, e.g. an annuity of £100 to A. B. until she marries. If the contingency happen, the remaining payments cease, and any duty paid in excess may be recovered, so that the duty is charged according to the term for which the annuity has endured.

The Form No. 2 is appropriate in these cases (see page 194).

On Sums to Purchase Annuities

2. Legacies given to purchase annuities (section 10).

The calculation of duty is made upon the sum necessary to purchase such annuity according to the tables annexed to the Succession Duty Act, 1853.

The duty is therefore not leviable upon the actual sum expended in the purchase of the annuity, but upon the notional sum according to the tables; and it is payable at once upon such sum and cannot be paid by instalments. The Form No. 1 is applicable.¹

This section only applies where the direction is to expend so much as will purchase the required annuity. If the direction is to lay out a certain sum, say, £1,000, in the purchase of an annuity, the duty is payable upon the £1,000, just as if it were an ordinary legacy of that amount.

¹ See p. 191.

On Variable Amounts

3. Legacies whose value can only be ascertained from time to time by the actual application of the fund allotted (section 11).

Such cases most commonly arise where a fund is given upon trust to apply so much of the income as may be necessary for the maintenance of an infant, and should he attain twenty-one, to pay the capital to him absolutely, with a gift over, if he die under that age, to persons liable to a different rate of duty.

The duty is payable upon the sums from time to time actually applied for the maintenance, and when the infant attains twenty-one, duty is payable upon the capital of the legacy and any unapplied income.

The Form No. 1 should be used to account each year for the actual income applied.

Such cases as the above must be distinguished from those where the legacy given to the infant is *payable* upon his attaining twenty-one years, or at some future period, with a direction to apply the income for his benefit meanwhile. Such being a *vested* legacy, the duty is payable upon the capital value of the legacy immediately.

On Legacies Passing to Different Persons in Succession

4. Legacies passing to different persons in succession (section 12).

(a) Where the different persons entitled are chargeable with the same rate of duty, e.g. £1,000

to the testator's brother for life, and on his death equally to the children of such brother, and failing such children, to the children of testator's sister—

Duty is chargeable upon the £1,000 as if it were a legacy to the brother absolutely.

When duty is so paid upon the *capital* of the legacy, there is no further claim for Legacy Duty upon the death of the life tenant.

(b) Where the different persons entitled are chargeable with different rates of duty, e.g. £1,000 to testator's brother for life, and on his death to testator's cousin for life, with remainder equally to such cousin's children—

The brother pays duty on his life interest in the £1,000 as if he had been given an annuity of the annual income thereof (*supra*), and on his death, duty becomes payable upon the capital of the fund as if it had, at the time of the testator's death, been given immediately to the cousin and his children.

On Furniture, etc., Given for Life

5. Furniture, plate, etc., while enjoyed in kind, is not liable to duty (section 14).

Thus furniture or other things not yielding any income given to A for life, and on his death to B, do not pay any Legacy Duty until A's death, unless sold meantime.

On Joint-Tenancies

6. Legacies given to persons in joint-tenancy (section 16).

The legatees must pay duty upon their respective interests; and if one joint-tenant becomes entitled by survivorship or severance of the joint-tenancy to any further interest in the property, he shall pay such duty upon the accruing portion as if the same had been originally given to him.

This section does not, however, charge any further Legacy Duty where the joint-tenants are all chargeable with the same rate of duty and duty has been paid upon the capital of the legacy under Rule 4 (a).

On the other hand, *Succession* Duty may be payable under section 3 of the Succession Duty Act, 1853.¹

Contingent Legacies

7. Legacies given subject to contingencies which may defeat the gift (section 17).

Such legacies (unless chargeable as contingent annuities as in Rule 1) are chargeable with duty as if they were absolute bequests. And if the contingency happens, and the legacy then passes to a person chargeable with a less rate of duty, or exempt from duty, no return of duty can be claimed. If, on the other hand, by the happening of the contingency, the legacy passes to a person chargeable with a higher rate of duty, the difference between the two rates of duty must be paid.

Powers of Appointment

8. Legacies subjected to powers of appointment (section 18).

Limited

(a) Where the power of appointment is a limited one, the legacy is charged with duty as if given to different persons in succession; and in so charging the duty, not only the persons who take previous or subject to such power, but also those who take under or in default of any such appointment, when and as they take respectively, are charged with the same duty and in the same manner, as if their respective interests had been given them by the will creating the power.

Example

Thus, a legacy of £1,000 given to A, testator's brother, for life, and on his death to such of his children as he may appoint, and in default of such appointment to B, testator's cousin. A pays duty on his life interest, as in Rule 4 (b), and on his death duty is payable upon the capital of the fund as either passing to his children, if he has exercised the limited power of appointment, or to B, if he has not—the rate of duty being fixed by the relationship of the legatees to the original testator, and not A.

Absolute

(b) Where the property is given for a limited interest and a general and absolute power of appointment is also given to any person to whom the property would not belong in default of such appointment, such property upon the execution of

such power is charged with the same duty and in the same manner as if it had been immediately given to the person having and executing such power, after allowing any duty before paid in respect thereof.

Example

E.g. a legacy of £1,000 to A for life, and on his death to such persons as he shall absolutely appoint and in default of appointment to B. A pays duty upon his life interest as in Rule 4 (b). Upon his death, if he has exercised his power of appointment, duty then becomes payable upon the £1,000 under the will under which A derived it; a deduction being allowed for the duty paid by A upon his life interest. If A has not exercised the power of appointment, then B pays Legacy Duty upon the capital of the fund. If the fund passes, in default of exercise of the power of appointment, to A absolutely, then duty becomes leviable upon the capital upon the testator's death: the effect of such a gift being to put A in the position of an ordinary legatee who takes his legacy absolutely. And if A and B are liable to the same rate of duty, the duty is charged upon the capital of the fund on death of testator.

Moneys to Purchase Real Estate

9. Moneys directed to be applied in the purchase of real estate shall pay duty as personal estate; but if given to different persons in succession each person shall pay duty in the same manner as if the

moneys had not been directed to be so applied, unless actually so applied before the duty accrued ; but no duty shall accrue in respect thereof after the same shall have been actually so applied for so much thereof as shall have been so applied. Provided that in case before the same or some part thereof shall be actually so applied, any person shall become entitled to an estate of inheritance in possession in the real estate to be purchased, the same duty shall be paid by such person as if absolutely entitled thereto as personal estate (section 19).

Money Left to Pay Duty

10. Money left to pay duty is not chargeable as a legacy (section 21). It must be remembered, however, that a residuary estate cannot be given free of Legacy Duty, as there is no other fund out of which to pay the duty than the residue itself.

Rates of Duty

The rates of Legacy Duty fixed by 55 Geo. III., c. 184, are as shown on page 115 (the provision as to married persons paying the same rate of duty as their spouses of nearer relationship to the testator being added by section 11 of the Succession Duty Act).

Legacies Out of Real Estate

As already noted (page 105), legacies payable out of or charged upon real estate or the proceeds thereof now pay Succession Duty, and accordingly

	Before Finance Act, 1910	After Finance Act, 1910 ¹
Husband or wife of the deceased	Exempt	} 1 per cent in certain cases. ²
Lineal ancestors and descendants, or their husbands or wives	1 per cent. ³	
Brothers and sisters, or their descendants, or the husbands or wives of any such	3 per cent.	5 per cent.
Brothers and sisters of the father or mother of the deceased or their descendants, or the husbands or wives of any such	5 per cent.	} 10 per cent.
Brothers and sisters of the grandfather or grandmother of the deceased, or their descendants, or the husbands or wives of any such	6 per cent.	
Persons in any other degree of collateral consanguinity to the deceased or strangers in blood	10 per cent.	

are liable to the higher rates of duty imposed by the Customs and Inland Revenue Act, 1888. The higher rates are an additional 10s. per cent to the 1 per cent duties, and an additional £1 10s. per cent to all the other duties. But such higher rates are not payable upon property which is chargeable with Estate Duty.⁴ Accordingly, the higher rates now only extend to legacies payable out of or charged upon real estate or the proceeds thereof arising on deaths on or after the 1st July, and before the 2nd August, 1894, and on deaths on or after the 2nd August, 1894, where Estate Duty is *not* chargeable upon the property.

Where such higher rates are chargeable and the

¹ Sect. 58 Finance Act, 1910, upon legacies on deaths of testators or intestates after 29th April, 1909.

² See p. 118.

³ But see "Exemptions," *infra*.

⁴ Sect. 1 Finance Act, 1894.

legacy is payable partly out of personal estate and partly out of the proceeds of real estate (as in the case of mixed funds), an apportionment is necessary to show how much of the legacy is liable to Legacy Duty, and how much to Succession Duty (higher rate). In such cases the "Composite Forms" Nos. 11 and 12 are applicable.¹

EXEMPTIONS

Husband or Wife

(a) Property passing to the husband or wife of the deceased, except where the Finance Act, 1910, applies (*infra*) and property of national, etc., interest, as at page 33.

(b) Property passing to lineal ancestors or lineal descendants of the deceased (or husbands or wives of such)—

Where Estate, Probate, or Account Duty Paid, Certain Exemptions Apply

(1) Estate Duty has been paid on the property² except as above.

(2) Account or Probate Duty has been paid: as to the former, in cases of deaths on and after 1st June, 1881, and as to the latter, in cases of grants of probate or letters of administration on or after the same date.³

(c) Where the fixed Probate Duty of 30s. has been paid.⁴

¹ *Q.v.*, p. 211.

² Sect. 1 Finance Act, 1894, and see p. 41.

³ Sect. 41 Customs and Inland Revenue Act, 1881.

⁴ Sect. 36 Customs and Inland Revenue Act, 1881.

(d) Where the net "unsettled" estate does not exceed £1,000 in value and Estate Duty has been paid thereon.¹

Foreign Domicile

(e) Where the deceased died domiciled abroad.²

Estate sub £100

(f) Where the deceased died after the 24th March, 1880, and the value of the whole personal estate is under £100.³

Specific Legacies sub £20

(g) Specific legacies under the value of £20. But where the legatee takes two or more distinct legacies, which shall together be of the amount or value of £20, then each shall be charged with duty, though each or either may be separately under that amount of value.⁴

Royal Family

The same Act also exempts from duty legacies given to the Royal family, and confirms the exemption in favour of certain specific legacies given to bodies corporate or public bodies.

Formerly, pecuniary legacies and shares of residue under £20 were exempt, but this exemption no longer applies in cases of persons dying on or after the 1st June, 1881.⁵

¹ Sect. 16 (3) Finance Act, 1894, and see p. 45.

² *Supra*, p. 104.

³ 43 Vict., c. 14, sect. 13.

⁴ 55 George III, c. 184, Schedule, Part III.

⁵ Sect. 42 Customs and Inland Revenue Act, 1881.

When 1 per Cent Duty Re-imposed

The Finance Act, 1910 (sect. 58), reimposed the 1 per cent legacy duty (except in sub £1,000 estates), and made same payable where the legatee is the husband or wife as in cases where he is a lineal ancestor or descendant of the testator or intestate.

Provided that the duty is not to be levied—

(a) Where the principal value of the property passing in respect of which Estate Duty is payable (other than property in which the deceased never had an interest, and property of which he was never competent to dispose and which on his death passes to persons other than the husband or wife or lineal ancestor or descendant) does not exceed £15,000, whatever the value of the legacy; or

(b) Where the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate or predecessor does not exceed £1,000, whatever the principal value of such property; or

(c) Where the legatee or successor is the widow or a child under twenty-one years' old of the testator, intestate or predecessor and the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, etc., does not exceed £2,000, whatever the principal value of the property.

Relief in Certain Small Estates

Where the net value of the deceased's property in respect of which Estate Duty is payable, exclusive of property settled otherwise than by his will, exceeds £1,000, the Legacy and Succession Duty payable in respect of the property shall not exceed the amount by which the net value of the property as estimated for Estate Duty exceeds £1,000. Thus an estate of £1,020 passing to persons liable to 5 per cent Legacy Duty, instead of paying £51 duty, pays only £20.¹

And see "Legacy Duty Forms," page 190.

¹ Sect. 13 Finance Act, 1914.

CHAPTER V

NOTES ON SUCCESSION DUTY

Succession Duty. When Chargeable

THE Succession Duty Act, 1853, imposed this duty. Section 2 of that Act declares that every disposition of property by reason whereof any person becomes beneficially entitled to any property or the income thereof upon the death of any person dying after the commencement of the Act (19th May, 1853), and every devolution by law of any beneficial interest in property or the income thereof upon the death of any person dying as aforesaid to any other person, shall be deemed to confer on the person becoming entitled as aforesaid a "succession," and under section 10 duty is payable upon such "successions" at rates graduated according to the relationship between the "successor" and the "predecessor."

The "successor" is the person who derives an interest.

The "successor" is the person so entitled.

The "predecessor" is the person from whom the interest of the successor is derived.

The effect of sections 1, 2, 18, and 19 of the Act is to charge Succession Duty upon—

Property Liable

(a) *Real and leasehold* property situate in the United Kingdom passing under a will or intestacy.

(b) Real and leasehold property situate as above

passing under a disposition or devolution other than a will or intestacy.

(c) Personal property not liable to Legacy Duty, i.e. when passing under a disposition or devolution other than a will or intestacy.

Foreign Domicile

But where a testator dies domiciled abroad his personal property situate in the United Kingdom is not liable to Succession Duty (nor, as we have already seen, page 17, to Legacy Duty), because the administration of his estate does not come under the jurisdiction of the English Courts. If, however, a person domiciled abroad creates an English settlement by deed or will, then the administration of such settlement falls within the jurisdiction of the English Courts; and though Succession Duty is not payable upon the property at the death of the testator, yet under a subsequent passing of the property under the settlement Succession Duty is payable. Thus, in *Attorney-General v. Campbell*¹ a domiciled Portuguese left a will whereby he gave the residue of his property to his trustees (three of whom were English) upon trust for sale, the proceeds to be invested in English Consols, out of the income of which certain annuities were to be paid to his wife and sister during their lives. Upon the death of the sister, it was held that Succession Duty was payable upon the funds set aside to meet her annuity, and passing to the testator's children.

¹ (1872), L.R. 5 H.L.C. 524.

But provisions have been made for relief from double taxation in certain cases where Succession Duty is payable in Northern Ireland (see section 52, Finance Act, 1927).

Attempted Evasions

In order to prevent attempted evasions of the duty, the Act (section 7) declares that dispositions (not being *bonâ fide* sales, and not conferring an interest expectant on death on the person in whose favour the same shall be made) accompanied by the reservation of any benefit to the grantor, or any other person, for life or any period ascertainable only by reference to death, shall be deemed to confer a succession. The case of *Attorney-General v. Johnson* already referred to is in point.¹

Section 8 also provides that dispositions made to take effect at a period ascertainable only by reference to the date of death of any person shall be deemed to confer successions on the person in whose favour the same shall be made; and secret trusts or other dispositions made for the purpose of evading the duty also confer successions.

Legacies Out of Real Estate

Legacies charged upon or payable out of real estate and the proceeds of sale thereof were formerly liable to Legacy Duty; but the Customs and

¹ See p. 28.

Inland Revenue Act, 1888, section 21 (2), declared that such legacies should be charged with Succession Duty as regards those arising on the death of a person dying on or after 1st July, 1888. Such legacies accordingly remain chargeable with Succession, and not Legacy Duty at the present time; but as the rates of Legacy and Succession Duty are, where the property has paid Estate Duty, identical, the distinction is practically immaterial, except where claims for Legacy and Succession Duty arise upon the same death in respect of the same property, and there is a conflict between the two duties (see page 128).

When Duty Payable

Succession Duty is to be paid on the successor becoming entitled in possession to the property, or to the receipt of the income and profits thereof; but in the case of outstanding interests, on the determination thereof (section 20).

Who is the Predecessor ?

As the rate of Succession Duty depends upon the relationship between the "predecessor" and the "successor," the question as to who is the predecessor must be accurately determined. In many instances the matter is simple enough. Thus—

A by will devises real estate to B for life, and on his death to C in fee. Upon A's death, the estate passing to B, A is clearly the predecessor and B the successor. Upon B's death, the estate then passing to C, A is still the predecessor and C the successor.

The same also applies if the disposition by A be a settlement and the property, say, a fund in Consols.

But in cases where the succession arises under titles other than the above, or where C has predeceased B or settled his interest in certain ways, then the question of predecessorship is not so easily determined. In such cases, the Act lays down certain rules which do not easily lend themselves to brief explanation. As general principles, however, there may be cited—

Cases of Joint-Tenancy

(a) Joint-tenancies (section 3).

A joint-tenancy created by the joint-tenants themselves, e.g. by purchase as joint-tenants, or created by the will of a testator dying before 19th May, 1853, or taken gratuitously under a disposition on the death of a person dying before such date: the predecessor, on the death of one, is the deceased joint-tenant.

A joint-tenancy created by a person other than one of the joint-tenants except as above: upon the death of one joint-tenant, the survivor takes a succession derived from the person who created the joint-tenancy as predecessor.

Of Powers of Appointment

(b) Powers of appointment (section 4).

It must be remembered that a gift of property by A to B upon such trusts as B shall appoint, and in default of any such appointment then to B absolutely, makes B the absolute owner: so that

upon B's death, he having by will left the property to C, then B is clearly the predecessor and not A.

Where a person has a general power of appointment he shall be deemed, when he exercises such power, to be entitled to the property as a succession derived from the donor of the power. In other words, he has, by exercising his power, made himself the absolute owner of the property. If, in his turn, he so disposes of the property as to create a new succession, then he is the predecessor.

If the power be limited, then any person taking the property by the exercise of such power takes the same as a succession derived from the person creating the power. The person who actually exercises the limited power is a mere conduit-pipe as it were.

Terminable Charges

(c) Extinction of determinable charges creates successions (section 5).

Thus, real estate is devised to A in fee, charged with an annuity of £100 to the testator's widow. Upon the widow's death Succession Duty becomes payable by A in respect of the cesser of the annuity derived from the original testator as predecessor. But A, upon the testator's death, when delivering his Succession Duty account, has two courses open to him. He can either deduct the annuity itself against the rents of the estate in arriving at the capital value based upon the net income, or can deduct the *value* of the annuity calculated according to the age of the widow. In the former case he

must pay further Succession Duty on the widow's death, but in the latter no further claim arises.¹

If A be entitled to the property for life only, the Succession Duty upon his interest is, as we shall see later (page 133), calculable upon the value of his life interest only. With respect to the annuity, he can either deduct the £100 per annum from the rental value of the property, in which case he must again pay duty upon the annuitant's death, or, to clear up the Succession Duty claim at once, he may claim no deduction at all for the annuity.²

Changes in Relation of Successor to Property

Certain sections of the Act deal with changes which may take place in the relation of a successor to the property before he actually becomes entitled to the enjoyment thereof, by reason of his death, alienation, etc. The question as to who is to be deemed the predecessor in such cases is often a most difficult one, and it is only possible to note here those cases which arise most frequently. Sections 14, 15, and 18 of the Act deal with the matter, and their effect may be summarised by the following concrete cases—

1. Section 14, dealing with personal property *only*.

Where Two Successions Arise Only One Duty Payable

£1,000 is settled by A by deed upon trust for himself for life, and on his death for B, his cousin, absolutely. B dies in A's lifetime, having settled

¹ See Form No. 6-1, p. 209.

² See Form No. 6, p. 211.

his reversionary interest upon himself for life, and on his death to his brother, C, absolutely. Upon A's death the rate of duty is to be the "highest rate which, if every successor had been subject to duty, would have been payable by any one of them." There is only one Succession Duty payable: it arises under the settlement made by B, and is payable by C; but its *rate* is 5 (or 10, if the Finance Act, 1910, applies) per cent, i.e. the *highest* rate that any successor would have paid. Thus, in such a case, the rate of duty is not determined by the relationship between B and C, but between A and B.

New Successions and Alienations

2. Section 15.

(a) Real estate is settled upon A for life, remainder to B absolutely. In A's lifetime B sells his reversionary interest to C. Upon A's death C pays the same Succession Duty which B would have had to pay.

(b) Same devise as above, but B predeceases A, having devised all his estate to D. Upon A's death the Succession Duty claim arises under B's will only, and D pays duty according to his relationship to B.

(c) Same devise as above, but B, in A's lifetime, sells his reversionary interest to C, who, also in A's lifetime, dies, having devised his estate to E. In this case it is considered that E, upon A's death, is only liable to pay the duty (if any) chargeable in respect of the devise to him under C's will.

Conflict of Duties : Where Legacy and Succession Duty Payable, Former Prevails

3. Section 18, last clause: "No person charged with the duties on legacies and shares of personal estate under the Legacy Duty Acts, in respect of any property subject to such duties, shall be charged also with the duty granted by this Act in respect of the same acquisition of the same property."

To bring a case under this section two requisites are necessary: (1) There must be a conflict of duties upon the same acquisition of the same property; and (2) the conflicting duties must be Legacy and Succession Duties. In connection with the latter requisite, it is important to remember that proceeds of real estate, since the Customs and Inland Revenue Act, 1888, are liable to Succession, and not Legacy, Duty; the latter duty is payable upon such proceeds passing under the will of a person dying *before* 1st July, 1888.

Thus, A, dying in 1888, devises real estate upon trust for sale, proceeds to his wife, B, for life, with remainder to his brother, C. C predeceases B, having by will bequeathed all his property to his brother, D. In such a case there is no question of a conflict of duties: both payable being Legacy Duty.

But to take a case where conflict does arise—

Thus A, by deed, settles £1,000 upon his wife, B, for life, with remainder to his brother, C. C dies in B's lifetime, having by will bequeathed all his property to his cousin, D. Upon B's death there

are, *primâ facie*, two claims for duty, one for Succession Duty upon the passing of the £1,000 under the settlement to C, and another for Legacy Duty upon the same fund as a legacy under C's will to D. But Legacy Duty only is payable and overrides the Succession Duty claim.¹

But suppose that C, instead of bequeathing his estate to his cousin, D, had bequeathed it to his wife so that no Legacy Duty became payable under his will; or had bequeathed it to his children, who, by virtue of section 1 of the Finance Act, 1894, did not become chargeable with Legacy Duty. Here the fund passes under C's will to persons not *charged* with duty under the Legacy Duty Acts, assuming that the wife and children are not liable to Legacy Duty under the Finance Act, 1910², and accordingly the original Succession Duty is not displaced by Legacy Duty, and is therefore payable.

The result would be the same if C's net estate were under £1,000 in value at the date of his death (including the value of his reversionary interest under the settlement), and, by the operation of section 16 (3) of the Finance Act, 1894, became relieved from all Legacy Duty; or, if he had died before such Act, and his estate had paid the fixed Probate Duty of 30s. under section 36 of the Customs and Inland Revenue Act, 1881, as in these cases there would be no persons taking under C's will who were *chargeable* with Legacy Duty.

¹ *Attorney-General v. Littleddale* (1870), 5 H.L.C. 290.

² See p. 118.

Re Haygarth

But these cases must also be considered in connection with the decision in *re Haygarth's Trusts*,¹ which laid down that where Probate Duty is paid under the Customs and Inland Revenue Act, 1881, i.e. in cases of grants on or after 1st June, 1881, the exemption from the 1 per cent Legacy and Succession Duties allowed by section 41 of that Act extended not only to the duties which would be payable under the deceased's will or intestacy, but also to duties payable under a prior disposition creating a succession, where the value of the deceased's interest in such succession has been included in the affidavit. Thus, in the instance given above, if C had been a son of A and his will had been proved in 1882, Probate Duty being paid upon the value of his reversionary interest in the settled property, and he had bequeathed his estate to a lineal issue, such payment of Probate Duty would not only exempt the Legacy Duty otherwise payable under his will,² but also the 1 per cent Succession Duty under the settlement.

Rates of Duty

The rates of Succession Duty are determined by sections 10 and 11 of the Succession Duty Act as amended by section 41 of the Customs and Inland Revenue Act of 1881, section 21 (1) of the like Act of 1888, section 1 of the Finance Act, 1894, and section 58 of the Finance Act, 1910.

The effect of these sections may be tabulated as shown on page 131.

¹ (1882), 22 Ch.D. 545.

² Sect. 41, *supra*.

Relationship of Successor to Predecessor	RATE OF DUTY			
	Where Succession arose on Death before 1st July, 1888	Where Succession arose on Death on or after 1st July, 1888, and before 2nd August, 1894 ¹	Where Succession arose on Death after 1st August, 1894, and Estate Duty has been paid	Where Succession arose on Death on or after 30th April, 1909, and Estate Duty has been paid ²
Husband or wife	Exempt	Exempt	Exempt	} 1 per cent in certain cases ⁴
Lineal issue or lineal ancestors, or their husbands or wives	1 per cent ³	1½ per cent	Exempt	
Brothers or sisters and their descendants, or the husbands and wives of such	3 per cent	4½ per cent	3 per cent	5 per cent
Brothers or sisters of the father or mother and their descendants, or the husbands and wives of such	5 per cent	6½ per cent	5 per cent	} 10 per cent
Brothers or sisters of the grandfather or grandmother and their descendants, or the husbands and wives of such	6 per cent	7½ per cent	6 per cent	
Persons of more remote consanguinity or strangers in blood, or the husbands and wives of such	10 per cent	11½ per cent	10 per cent	

¹ It will be noticed that column 2 charges an additional ½ per cent upon the 1 per cent rate, and an additional 1½ per cent upon all the other rates; but these *additional* rates are not payable upon leaseholds passing under a will or intestacy (i.e. where Probate Duty paid) or where Account Duty has been paid. In such cases, the rates remain as in the first column.

² Where the Succession arises under a disposition, these amendments only apply if the *first* Succession arises on or after the 30th April, 1909.

³ The duties of 1 or 1½ per cent are not payable where Probate Duty or Account Duty has been paid. This is only applicable as to Account Duty, in cases of deaths on or after 1st June, 1881.

See also exemptions conferred where whole estate under £300 *gross* and fixed Probate Duty paid (p. 15), and where whole estate does not exceed £1,000 *net* and Estate Duty paid.¹

⁴ The circumstances under which these rates are payable are the same as for Legacy Duty, see p. 115.

Value of Property for Payment of Duty

The rules for determining the value of property for payment of Succession Duty are—

Succession Before Finance Act, 1894

1. Real and leasehold property where the succession arises on a death *before* the Finance Act, 1894.

(Section 21 of the Succession Duty Act.)

The duty is payable upon the value of the successor's interest treated as if it were an annuity equal to the annual value of the property payable for the rest of the successor's life or for such less period during which he shall be entitled to the property.

Such annuity is to be valued according to the tables in the schedule annexed to the Act.

Payment by Instalments

The duty must be paid by eight equal half-yearly instalments, the first to be paid at the end of twelve months after the successor has become entitled to the beneficial enjoyment of the property, and the remainder at half-yearly intervals of six months each.

If the successor die before all such instalments shall have become due, then any instalments not due at his death cease to be payable; but this exemption does not apply in the case of a successor competent to dispose by will of a continuing interest in such property.

If the succession arises on a death on or after 1st

July, 1888, the successor may at his option pay the duty thus—

By two equal moieties; the first moiety to be paid by four equal yearly instalments, whereof the first instalment is to be paid at the end of twelve months after the successor shall have become entitled to the beneficial enjoyment of the property, and the three following instalments at yearly intervals; the second moiety to be paid on the day for payment of the last instalment of the first moiety, or, if not so paid, to be paid by four equal yearly instalments, the first instalment to be paid at the end of twelve months from that day. If the successor die before all the duty has been fully paid and he is not competent to dispose by will of a continuing interest in the property, and he has died before the day for payment of the last instalment of the first moiety, then the unpaid duty shall be reduced by so much as would have ceased to be payable if the successor were paying the duty by eight half-yearly instalments as above.¹

(Section 22 of the Succession Duty Act.) An allowance shall be made in estimating the annual value for all necessary outgoings.

Succession After Finance Act, 1894, where Successor not Competent to Dispose

2. Real and leasehold property where the succession arose on a death *after* the Finance Act, 1894, and the successor is *not* competent to dispose of the property, i.e. he has not such an estate, power

¹ Sect. 22 Customs and Inland Revenue Act, 1888.

or authority as would enable him to dispose of the property as he thinks fit, and he is not a tenant in tail in possession.

The first rule applies.

Where Successor is Competent to Dispose

3. Real and leasehold property where the succession arose on a death *after* the Finance Act, 1894, and the successor *is* competent to dispose of the property.

(Section 18 of the Finance Act, 1894.)

The duty is payable upon the principal value of the property.

The principal value shall be estimated to be the price which the property would fetch if sold in the open market at the time of the death.¹

Deduction may be taken for the Estate Duty paid upon the property and any expenses properly incurred in raising and paying the same.

But no such deduction can be made in a succession account of *leaseholds*, unless Estate Duty is specially charged upon such leaseholds.

As regards purely agricultural property the principal value for Succession Duty purposes shall be ascertained in the same manner as for Estate Duty purposes.²

The duty shall be paid in the same manner as Estate Duty on real property,³ and section 61 (5) of the Finance Act, 1910, as amended by section 9 of the Finance Act, 1912, applies to Succession Duty on woodlands.⁴

¹ Sect. 7 (5) Finance Act, 1894, see p. 74.

² See p. 75.

³ See p. 86.

⁴ See p. 85.

Exception as to Sales or Mortgages Before Finance Act

The provisions of section 21 (3) of the Finance Act, 1894,¹ must, however, be borne in mind in connection with this rule. *Bonâ fide* purchasers or mortgagees of reversionary interests in real or leasehold property pay the same duty as if the Finance Act, 1894, had not been passed: accordingly it is considered in such cases that the Succession Duty, though the successor be a person competent to dispose, is chargeable upon the value of the life interest as in Rule 1.

4. PERSONAL PROPERTY (INCLUDING LEASEHOLDS).

(Section 32 of the Succession Duty Act.)

Such property is to be valued by reference to the Legacy Duty Act.²

EXEMPTIONS**Husband or Wife**

(a) Property passing to the husband or wife of the predecessor, except where the Finance Act, 1910, applies, see page 131.

Lineal Ancestors or Descendants in Certain Cases

(b) Property passing to lineal ancestors or lineal descendants of the predecessor where—

(1) Estate Duty has been paid on the property³ except as above.

(2) Account or Probate Duty has been paid on the property under the Act of 1881.⁴ This

¹ Page 38.

² 36 Geo. III., c. 52, and see p. 106.

³ Sect. 1 Finance Act, 1894, and see p. 43.

⁴ Sect. 41 Customs and Inland Revenue Act, 1881.

exemption can only apply to Succession Duty upon personal property, including leaseholds, as real property is not liable to either Account or Probate Duty.

Succession sub £100

(c) Where the whole succession or successions derived from the same predecessor and passing upon any death to any person or persons shall not amount in money or principal value to the sum of £100.¹

There was formerly an exemption under this section in favour of any particular succession where the taxable value was less than £20, but such was abolished as to successions arising upon deaths after 31st May, 1889.²

Where 30s. Probate Duty Paid

(d) Where the fixed Probate Duty of 30s. has been paid. This exemption cannot, of course, apply to real property, but it extends to leaseholds.³

Estate sub £1,000

(e) Where the value of the net estate passing under the deceased's will or intestacy does not exceed £1,000, and Estate Duty has been paid thereon.⁴

This exemption extends to any realty the value of which is included in the sub £1,000 estate.

¹ Sect. 18 Succession Duty Act.

² 52 Vict., c. 7, sect. 10 (2).

³ Sect. 36 Customs and Inland Revenue Act, 1881.

⁴ Sect. 16 (3) Finance Act, 1894.

Where Successor is also the Settlor

(f) A person taking a succession under a disposition made by himself is only chargeable with duty where, at the date of such disposition, he shall have been entitled to the property expectantly on the death of any person dying after the Succession Duty Act, 1853, and such person shall have died during the continuance of such disposition. The duty in such case is the same as if no such disposition had been made. And no person shall be chargeable with duty upon the extinction or determination of any charge, estate or other interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto expectantly on the death of some person dying as aforesaid.¹

Foreign Property

(g) The property of foreigners is, in certain cases, exempt.²

Church Patronage, etc.

(h) Advowsons, church patronages and rights of presentation only become liable to Succession Duty if and when sold.³

(i) Objects of national, scientific, etc., interest, until sold as at page 33.

(j) Timber, unless and until sold.⁴

See also "Succession Duty Forms," page 203.

¹ Sect. 12 Succession Duty Act, 1853.

² See p. 121.

³ Sect. 24 Succession Duty Act, 1853.

⁴ Sect. 61 (5) Finance Act, 1910; sect. 19 Finance Act, 1911; and sect. 9 Finance Act, 1912.

CHAPTER VI

FORMS

(a) PROBATE DUTY FORMS

(Deaths on or before 1st August, 1894.)

THESE forms are as follow—

Original Affidavits

“B.” Original affidavit to lead to grant of probate or letters of administration; to be used where the gross personal estate is not over £100 in value, or where the whole personal estate, wherever situate, and without deduction for debts, etc., does not exceed £300 in value, the deceased in either case having died on or after 1st June, 1881.

“A.” The like affidavit as “B”; to be used where Form “B,” “Y,” or “Z” is not applicable.

* “Y.” The like affidavit as “B”; to be used where the deceased left no personal estate in this country.

* “Z.” The like affidavit as “B”; to be used where the deceased was merely a trustee and had no personal estate of his own.

Corrective Affidavits

“D.” Corrective affidavit; to be used where the grant was taken out on or after the 1st June, 1881.

* “L.” The like affidavit as “D”; to be used where the grant was taken out *before* 1st June, 1881.

* "M." For return of Probate Duty where the original grant was taken out before 1st June, 1881, and the return is claimed on the ground of over-estimate.

* "N." For like cases as "M," but where the return of duty is claimed on the ground of debts paid.

* Application for these forms must be made direct to the Controller, Estate Duty Office, by the parties concerned.

The other forms can be obtained at any Head Post Office outside the Metropolitan Postal District or from the Controller, Estate Duty Office.

FORM B

When Applicable

This form is to be used only where the deceased's GROSS personal estate, wherever situate, does not exceed £100 in value, so that no Probate Duty is payable, or where it does not exceed £300, and it is desired to pay the fixed duty of 30s.¹

It must be remembered that if the fixed duty of 30s. be paid, and it be afterwards discovered that the gross personal estate exceeds £300, the fixed duty is forfeited.

Payment of the 30s. fixed duty absolves the property upon which it is paid from all Legacy or Succession Duty.

Domicile

(a) Paragraph 1.—Domicile.

¹ See p. 4.

In inserting the domicile of the deceased care must be taken to insert the name of that country where the deceased had his permanent abode and where he had acquired a domicile. If the deceased died domiciled abroad, and such fact be substantiated to the satisfaction of the Estate Office, no Legacy Duty is payable upon his property whether situate in the United Kingdom or not.¹

Power of Appointment

(b) Paragraph 2.—General power of appointment.

Where the deceased did not exercise the power by his will the property should not be included, as it does not come within section 4 of 23 & 24 Vict., c. 15, and so is not liable to Probate Duty. But if he has a general power of appointment over property, which, in default of his exercise of the power, would pass to him or his executors or administrators, the power of appointment is redundant and the property should be treated as if it formed part of the deceased's own unfettered estate.

Real Estate

(c) Paragraph 4.—Real estate.

It may be noted that the exemption from Succession Duty conferred by payment of the 30s. fixed duty cannot apply to the deceased's real estate; but it extends to any leaseholds included in the property upon which the fixed duty is paid.

¹ *Thomson v. Advocate-General* (1845), 13 Sim. 153.

Valuation of Property

(d) Valuation of property.

(1) All property must be valued *as at the date of the affidavit*; not, as in the case of Estate Duty, at the time of the death. All accretions of income up to the date of the affidavit should be included.

(2) Book debts. If these are not included at the gross amount owing, an explanation of the estimated amount is required.

(3) Reversionary interests. These, if not actually fallen into possession at the date of the affidavit, may be valued in the same manner as for Estate Duty.¹ If fallen into possession, the value should be taken as at the date of the affidavit with all accretions of income meantime.

FORM A

This form is to be used where Forms "B," "Y," or "Z" are not applicable.

(a) Paragraph 1.—Domicile. See Form "B," note (a), page 139.

(b) Paragraph 4.—Foreign assets.

Even if the deceased be domiciled in the United Kingdom his foreign moveable property is not liable to Probate Duty. But it *is* liable to payment of Legacy Duty. Accordingly, where the deceased died domiciled in the United Kingdom possessed of property situate abroad, such property, if passing to his lineal issue, cannot claim exemption from the 1 per cent Legacy Duty under section 41 of the Customs and Inland Revenue Act, 1881.

¹ See p. 155.

(c) Paragraphs 6 and 7.—Debts deductible. See page 4.

(d) Valuation of property. See Form "B," note (d), page 141.

(e) General power of appointment. See Form "B," note (b), page 140.

FORMS Y AND Z

These forms are so rarely needed that it is not proposed to take any special notice of them.

FORM D

When Applicable

This form is for payment of further Probate Duty where additional assets have been discovered or the value of the original assets under-estimated; OR for the return of Probate Duty paid where the value of the original assets has been over-estimated or further debts discovered.

It is only applicable where the original grant was taken out on or after 1st June, 1881; in other Probate Duty cases the Forms "L," "M," or "N" apply.

The affidavit should be made by the deceased's executor or administrator, and production of the probate or letters of administration will be required.

Time of Discovery

(a) Paragraphs 2 and 3.—Time of discovery.

Section 32 of the Customs and Inland Revenue Act, 1881, requires accounting parties to deliver the corrective affidavit and pay the further duty

within six months after the discovery of the error. Failure to do so within such period renders the parties liable to penalties (section 40).

Return of Duty

(b) Paragraphs 4 and 5.—Return of duty.

Under section 31 of the same Act the provisions for return of overpaid duty, in cases of over-estimated value of assets, only apply where the estate is still under administration; and the provisions for return of overpaid duty where insufficient deduction has been made for debts, etc., apply where three years have not elapsed since the grant, or such further period as the Commissioners may allow.

Debts

(c) Paragraph 7.—Debts deductible. See page 4.

(d) Paragraph 8.

Interest on Duty

(1) Interest on duty.

The valuation of the additional assets (including reversions whether fallen into possession or not), should be made as at the date of the original affidavit, from which date interest on the duty is charged.

FORMS Nos. " M " AND " N "

These forms are for return of overpaid Probate Duty where the original grant was taken out *before* 1st June, 1881.

The production of the original grant is indispensable, and the application must be made within six months after the true value of the estate has been discovered (section 40, 44 Vict. c. 12). These forms are now so rarely needed that no further remarks are necessary.

(b) ACCOUNT DUTY FORMS

(Deaths on or after 1st June, 1881, and before
2nd August, 1894.)

These forms are—

“C.” For payment of Account Duty.

“H.” For return of overpaid Account Duty.

The forms can be obtained at any Head Post Office outside the Metropolitan Postal District, or from the Controller, Estate Duty Office.

FORM C

As to what classes of property should be included in this form, see page 6.

The property should be valued *as at the date of the death*; interest upon the duty from such date to date of delivery of the account is charged at the rate of 3 per cent per annum, 4 per cent from 30th July, 1919, and 3 per cent from 26th April, 1933.¹

FORM H

This form is dealt with under the heading of “Legacy Duty Forms” (see page 190).

¹ Section 43, Finance Act, 1933.

(c) TEMPORARY ESTATE DUTY FORMS

(Applications for grants and deaths on or after 1st June, 1889, and deaths before 2nd August, 1894.)

These forms are—

“E.” (Supplemental to Probate Duty affidavit.) Statement to be delivered with Probate Duty affidavit “A” where the estate, in respect whereof Probate Duty is charged on the affidavit, exceeds £10,000, and where application for grant of probate or letters of administration was made on or after 1st June, 1889.

“F.” (Supplemental to Account Duty account.) Statement of the property included in Account Duty account “C” where the value of such property exceeds £10,000.

“No. 13.” In duplicate. (Supplemental to Succession Duty account.) Statement of value to be delivered with an account of any succession on the death of any person dying on or after 1st June, 1889, where the value of the succession exceeds £10,000, or where, in the case of real property passing under a will or intestacy, the value of the succession, together with the value of any other benefit taken by the successor under the said will or intestacy, exceeds £10,000.

“No. 14.” For second or subsequent instalments of Temporary Estate Duty on successions.

“G.” (Supplemental to corrective affidavit “D.”) Corrective statement of value; to be used where too much or too little Temporary Estate Duty has been paid on a Form “E.”

The forms can be obtained at any Head Post Office outside the Metropolitan Postal District, or from the Controller, Estate Duty Office.

This duty being now rarely payable, it is not proposed to make any remarks upon the forms.

(d) ESTATE DUTY FORMS

(Deaths *after* 1st August, 1894.)

Estate Duty is either paid upon an affidavit leading to grant of probate or letters of administration, or upon an account.

The affidavits leading to grants are as follow—

Small Estate Forms

“ Small Estate ” Forms

“B-2.” To be used where there is *no* “settled” property and it is desired to pay the fixed duty of 30s. or 50s., i.e. the *gross* value of the estate does not exceed £300 or £500 as the case may be.

“B-3.” To be used in cases similar to “B-2,” but where there *is* settled property.

“B-4.” Similar to “B-3” but where the death occurred on or after the 19th April, 1907.

“No. 24.” Summary of duty and interest—to accompany “B-3.”

“No. 27.” Summary—to accompany “B-4.”

“No. 22.” See *infra*.

Other Affidavit Forms

“ No Settled Property ” Forms

“A-4.” To be used where the estate consists *exclusively* of *free* personal property in the United

Kingdom passing under the deceased's will or intestacy, except in cases where "B-2" is applicable.

"No. 16." Summary of duty and interest—to accompany "A-4."

"A-6." To be used in similar cases as "A-4," but where there is also *free* real property in the United Kingdom passing under the deceased's will or intestacy.

"No. 17." Summary of duty and interest—to accompany "A-6."

"A-3." To be used where "B-2," "B-3," "A-4," "A-6," "Y-I," or "Z-I" is not applicable.

"A-7." Similar to "A-3," but where the death occurred on or after the 19th April, 1907.

"No. 15." Summary of duty and interest—to accompany "A-3."

"No. 28." Summary—to accompany "A-7."

* "Y-I." To be used where the deceased died domiciled abroad, and no property situate in the United Kingdom passed at his death within the meaning of the Finance Acts, but a grant is required in respect of assets which have since been transmitted to this country.

* "Z-I." To be used where no property chargeable with Estate Duty passed on the death of the deceased, and the grant is solely in respect of property of which the deceased was trustee only.¹

* "No. 22." For small estates under £100 in net value, where money is deposited in a Savings Bank or due by a Friendly Society, and a certificate of

¹ This form is not now in use. In its place is substituted the form of Inland Revenue affidavit (A.4, etc.) completed to show the purpose for which the grant is required, and that the free estate in England is nil.

exemption from duty is required to obtain payment of the money.

* Application for these forms must be made *direct* to the Controller, Estate Duty Office, by the parties concerned.

“A-5.” To be used where a second or subsequent grant is required in respect of property which was within the operation of a previous grant. Where it was not so, the same form should be used as for an original grant. (This form can be obtained from the Controller, Estate Duty Office).

Form of “Account.”

The only form of “account” is—

“C-1.” In duplicate. To be used where it is desired to pay Estate Duty upon property passing on the death, where such duty has not been paid on the affidavit leading to the grant.

Corrections of Duty

The forms for correction of Estate Duty are—

“D-1.” In duplicate only where further duty is to be paid. Corrective affidavit where it is desired to make a correction in respect of the affidavit leading to grant.

“D-2.” In duplicate only where further duty is to be paid. Corrective account where it is desired to make a correction in respect of a “C-1” form.

Instalment Form

The Instalment Form is—

“C-3.” For payment of the second and subsequent instalments of Estate Duty.

(This form applies equally to instalments of Settlement Estate Duty.)

Commutation of Duty Form

The Commutation of Duty Form is—

“No. 20.” In duplicate. This form can only be obtained by application *direct* to the Controller, Estate Duty Office, by the parties concerned, and is not supplied until a commutation has been agreed to.

Where Forms Obtainable

All the above forms, except where otherwise noted, can be obtained at the Head Post Offices outside the Metropolitan Postal District, or from the Controller, Estate Duty Office, Somerset House.

FORM B-2

When Applicable

This form is applicable where there is *no* “settled” property other than that settled by the deceased’s will (if any), and it is desired to pay the fixed duty of 30s. or 50s., i.e. the GROSS value of the estate does not exceed £300, or £500 as the case may be.

“Settled” property is property which, for the time being, stands limited to persons by way of succession.¹

Scheme of the Form

It will be noticed that the form divides the deceased’s estate into two parts: the first part to

¹ See p. 96 and note (c) to this form, *infra*.

include the deceased's real and personal property passing under his will or intestacy, and the second to include property otherwise passing on the deceased's death. The grant of probate or letters of administration only extends to the first-mentioned property, the total of which is accordingly the figure to be included in paragraph 7; the personalty portion being included in paragraph 5 and the realty in paragraph 6. The total of the two parts is the figure to be included in paragraph 3.

As to the effect of payment of the fixed duty of 30s. or 50s. and what debts are deductible, see page 43.

Effect of Domicile

(a) Paragraph 1 of the form.—Domicile.

If it be claimed that the deceased was domiciled abroad at the time of his death, the accounting parties must be prepared to supply evidence in support thereof showing that the deceased either never had a British domicile or had definitely relinquished it and acquired another.

Where a foreign domicile is claimed, and the claim admitted by the Estate Duty Office, the effect will be—

(1) Estate Duty (and Settlement Estate Duty if the will creates a settlement of the British property) will be payable only in respect of the deceased's property situate in the United Kingdom; except where the deceased, even though domiciled abroad, was interested only for life, and

at his death the property formed the subject of a British trust or was vested in a British trustee.¹

(2) No Legacy Duty will be payable upon the deceased's property whether situate in the United Kingdom or abroad.²

(3) Whether the deceased be domiciled abroad or not, Succession Duty is only payable in respect of real and leasehold property situate in the United Kingdom. But Succession Duty may be payable in cases coming within the scope of *Attorney-General v. Campbell*.³

Powers of Appointment

(b) Paragraph 3.—Property over which the deceased had a general power of appointment.

Where the deceased actually exercised this power by his will, the property is not treated as “settled.” And if the deceased had a general power of appointment and the remainders over in default of his exercise of the power were to him absolutely, the property is not “settled” and should be included in this form.

Settled Property

(c) Paragraph 4.—“Settled” property.

Settled property is property which, for the time being, stands limited to persons by way of succession.⁴

All property which does not come within such

¹ *Attorney-General v. Jewish Colonisation Association* (1901), 82 L.T. 679.

² *Thomson v. Advocate-General* (1845), 13 Sim. 153.

³ See p. 121.

⁴ See p. 96.

description is "free" estate, and must be included in this affidavit. At the foot of page 3 of this form are specified various classes of not "settled" property. It follows that if the gross estate of the deceased be £450 in value, but within twelve months (or three years, if the Finance Act, 1910, applies, see page 22) of his death he made (taxable) gifts, then the free estate passing exceeds £500 and the case is not one for payment of the fixed duty of 50s. Care should therefore be taken to ascertain whether any property passed on the death of the deceased other than that passing under his will or intestacy.

Effect of Land Transfer Act, 1897

(*d*) Paragraph 6.—Reference to the Land Transfer Act, 1897.

Section 1 of this Act provides that in the case of a person dying on or after the 1st January, 1898, his real estate (other than copyholds, but including realty over which he had a general power of appointment) shall, notwithstanding any testamentary disposition, devolve upon his personal representatives. Accordingly in such cases the grant of probate of the will or letters of administration extends to the deceased's real estate as above; but where the death took place before 1898, the probate or letters of administration covered the deceased's personal estate only. But where the deceased died on or after 1st January, 1926, the executor is also accountable for the Estate Duty upon land in England and Wales (including settled

land) which devolves upon him by virtue of any statute or otherwise (Law of Property Act, 1925, section 16 (1)).

Valuation of Property

(e) Valuation of property.

(1) All property is to be valued *as at the date of the death*.

Stocks and Shares

(2) Stocks and shares (see footnote on page 2 of the form).

Dividends

(3) Dividends declared, received, and accrued due.

All quotations of stocks carry accruing dividends to the purchaser, until the stock is quoted "ex div." Care should therefore be taken to see if any stocks included in the affidavit are quoted "ex div." at the date of the death, as in such case the accruing dividend should be included in the affidavit.

Book Debts

(f) Book debts.

If these are not included at the actual sum due, some explanation should be given as to the amount of discount deducted or nature of any allowance made for bad debts. But an allowance cannot be made for doubtful debts unless they are irrecoverable at the time of the deceased's death.

Partnership Property

(g) Partnership property.

It is generally necessary to produce the articles of partnership for notation at the Estate Duty Office. They are called for when the affidavit is under examination.

If the deceased's interest in the partnership property passes on his death by virtue of the partnership articles to persons other than the deceased's executor or administrator, then naturally the claim for Estate Duty is under the partnership articles, and his interest should not be included under the above heading in the affidavit, but a separate statement should be annexed to the affidavit setting forth the facts.

In such cases, the property so passing under the partnership articles may be "settled" property, and this form—"B-2"—would be inappropriate.

Leaseholds

(h) Leasehold property.

The form contains a note that "no debt or incumbrance incurred or created by the deceased himself is to be deducted."

The form applies to cases where the GROSS estate does not exceed £300 or £500, so that the deduction of debts *incurred by the deceased* would be inappropriate. But deductions are allowed for debts or incumbrances against leaseholds and real property created by the deceased's ancestors in title, unless the deceased himself took over the liability, and see allowances at page 44.

Life Tenancies

(i) Property of which the deceased was tenant for life.

If Estate Duty is payable in respect of such property then this form is inapplicable and Form "B-3" or "B-4" should be used. But it may be exempt from Estate Duty (see "Exemptions," page 25, and particularly those at pages 29 and 35).

Reversions

(j) Reversionary interests.

If the interest be derived under a deed which has not already been entered at the Estate Duty Office, the parties must be prepared to forward the deed, or a copy, for notation.

Method of Valuation

Full particulars of the fund should be given, showing the investments of which it is comprised, together with their value as at the date of the deceased's death. The income produced by the fund should also be shown, and the deduction for the value of the life interest *may* be made (where an actuarial valuation is not obtained and accepted by the Office) by taking the income of the fund as an annuity for the life of the life tenant and calculating the value of such annuity according to the tables annexed to the Succession Duty Act, 1853.

Example

Thus, suppose the fund to be a sum of £500 invested upon mortgage at 4 per cent, and the age of the life tenant at the time of deceased's death

be fifty-eight years. The value of an annuity of £20 for a life aged fifty-eight according to the above tables is £205 2s., which, being deducted from the £500, leaves £294 18s. as the present value of the reversion.

Contingent Reversions

It is most important that full disclosure be made of *all* deceased's reversionary interests, even though such be only contingent in their nature, such as where his estate would become entitled to a fund on the death of a person without issue and the like. If such interests be not disclosed in the affidavit and a fair market value put upon them (not merely a nominal one¹) it may be found, if they subsequently fall into the deceased's estate, that the *rate* of Estate Duty already paid upon his estate is altered. Moreover, the fact whether Estate Duty is at once paid upon deceased's reversionary interests or deferred until such interests actually fall into possession, has a very important bearing upon the future claims for duty under the settlement or will under which the interest is derived. (See page 29.)

It may be added that in cases of payment of the fixed duty of 30s. or 50s., the payment of Estate Duty upon reversionary interests cannot, of course, be deferred until they fall into possession.

Land Transfer Act

(k) Reference to the Land Transfer Act, 1897. See note (d), *supra*.

¹ *Lord Adv. v. Pringle*, 15 S.L.R. 624.

Other Real Property

(l) "Other free real property."

Such will include any real property expressly excluded from the term "real property in England," i.e. land of copyhold tenure or customary freehold where, before the Law of Property Act, 1925, an admission or act by the lord of the manor was necessary to perfect the title of a purchaser from the customary tenant.

Section 20, Finance Act, 1894

(m) Reference to section 20 of the Finance Act, 1894. See notes on "Estate Duty," page 87.

Other "Free" Estate

(n) Reference to other "free" estate—

Donations mortis causâ.

Inter vivos gifts.

Inter vivos gifts with reservation and nomination policies.

These classes of property are liable to Estate Duty under section 2 of the Finance Act, 1894, referring to the Customs and Inland Revenue Acts of 1881 and 1889.¹

Annuities—

Liable under section 2 (1) (d) of the Finance Act, 1894.²

FORM B-4**When Applicable**

This form is applicable to cases similar to "B-2" (*q.v.*), but where there is "settled" property passing on the death of the deceased, other than that

¹ See p. 21.

² See p. 23.

settled by his will (if any), and the deceased died on or after the 19th April, 1907.¹

Scheme of the Form

The form deals with the estate under the following divisions—

Division I

All property passing on the death under any title whatsoever, exclusive of “settled” property. Such includes—

(a) The deceased’s own absolute property, real and personal.

(b) Property over which he had, and exercised by will, an absolute power of appointment, or where the remainders in default of exercise of the power were to himself absolutely.

(c) Other property passing on the deceased’s death and not “settled,” such as death-bed gifts, *inter vivos* gifts, nomination policies, joint or survivorship annuities.

The *gross* total (after any deduction allowable as at page 45) of all such property as at (a), (b), and (c) must not exceed £300 or £500, as the case may be, and is the figure to be inserted in paragraph 3 of the form.

Division II

All property passing on the deceased’s death to his executors or administrators, whether “settled” or not.

¹ Aggregation affected, see p. 55.

This division is made for Probate Court purposes, and does not affect the claims for duty. It will include—

(a) The deceased's personal property.

(b) The deceased's real property in England and Wales.

(c) Realty and personalty over which the deceased had an absolute power of appointment where he actually exercised such power by his will.

The amount of the personal property at (a) and (c) is included in paragraph 4 of the form, and of the real property at (b) and (c) in paragraph 5, the total of the two being inserted in paragraph 6.

The property at (c) was formerly treated as "settled" whether the deceased exercised the power of appointment or not, unless the remainders over in default of appointment were to himself, his executors, etc. Now, however, such property is treated as part of the free estate where the power is exercised by the deceased's will. In any event this is property of which the deceased was competent to dispose, and, under section 8 (3) of the Finance Act, 1894, the executor is accountable for the Estate Duty upon such property so far as it is *personal* property. This property must therefore be included in Account "B," and the executor has no choice, although it may be "settled" property, but to pay the Estate Duty upon it on the affidavit. But if it be real property, the executor is at liberty to leave the payment of the Estate Duty upon it to the trustees or other accountable parties under

the will or deed by which the deceased derived his power of appointment.

Division III

All personal property, not being free property, of which the deceased was competent to dispose at the time of his death.

This division is made for the purposes of section 8 (3) of the Finance Act, 1894, above referred to. It defines the property other than the free estate upon which the executor is liable to pay the Estate Duty.

Paragraphs 7 and 8 of the form refer to such property, and it should be included in Account "B."

Property over which the deceased had a general power of appointment, and money which he had power to charge upon real property, are the most ordinary instances of such property; and it will be observed that the deceased's executor is liable for the Estate Duty thereon whether the deceased exercised the power by his will or not.

Division IV

Other settled property.

Under this heading is included settled property of which the deceased was not competent to dispose at the time of his death, but in respect of which Estate Duty is payable on his death. The executor is at liberty to pay the Estate Duty upon such property on the affidavit, or he may account for it separately on a "C-1" Form,¹ or may leave it

¹ *Q.v.*, p. 181.

to the parties accountable for the duty upon it to discharge such duty on a "C-1" Form.

Whether the executor elects to pay the Estate Duty upon such property or not, he is bound to give full particulars of it under section 8 (3) of the Finance Act, 1894.

The property is referred to in paragraph 9 of the affidavit, and the executor gives notice of his election as to payment of the Estate Duty in paragraph 10. Paragraphs 11 and 12 refer to any debts or incumbrances upon such property.

The following is a concrete example of the above classification—

Example

The property passing on the death and liable to Estate Duty is—

- | | |
|---|-------|
| (a) Property belonging absolutely to the deceased: stocks and shares, cash, furniture, etc. | £200 |
| (b) Under the will of A. B. the deceased had an absolute power of appointment over a sum of £100, invested on mortgage, and in default of exercise of the power the fund passes to the deceased absolutely | 100 |
| (c) Under the will of C. D. the deceased had an absolute power of appointment over a sum of £1,000, invested on mortgage, and in default of exercise of the power the fund passes to the deceased's brother. The deceased <i>did not</i> exercise the power by his will | 1,000 |
| (d) Within 12 months of his death, or other period defined by the Finance Act, 1910 (see page 22) the deceased made a gift of £110 cash to his wife | 110 |
| (e) Under the will of E. F., who died in 1890, the deceased was tenant for life of "Blackacre," with remainder to his children | 500 |

The "not settled" property (Division I) passing on the death is (a) + (b) + (d)—total £410—upon which the fixed duty of 50s. may be paid.

The property passing to the deceased's executors (Division II) for probate purposes is (a) + (b)—total £300.

Account "A" will include on page 3, (a) and (b). The total £300, will be the first addition on page 4. The £110 at (d) being added will give as the total of Account "A" £410, being the gross principal of the free and other unsettled property.

The £1,000 at (c) being settled property and also property of which the deceased was competent to dispose, will be taken to Account "B."

The property of which the deceased was competent to dispose (Division III) is (a) + (b) + (c)—total £1,300.

The "other" settled property (Division IV) is (e)—total £500.

To deal with the other points arising upon this form—

Other Notes

(a) Paragraph 1.—Domicile. See note (a), Form "B-2," page 150.

(b) Paragraph 3.—"Not settled" property passing on death. The total of such property must not exceed £300 or £500 as the case may be, otherwise this form is inapplicable, and the fixed duty of 30s. or 50s. not properly payable. See Division I, *supra*.

(c) Paragraph 4.—This paragraph refers to property passing under the deceased's will or intestacy. See Division II, *supra*.

(d) Paragraph 5.—(1) Reference to the Land

Transfer Act, 1897. See note (d), Form "B-2," page 152.

(2) Real property over which deceased exercised by will a general power of appointment. See Division II, *supra*.

(e) Paragraph 6.—Total of property in respect of which the grant is to be made. See Division II, *supra*.

(f) Paragraphs 7 and 8.—Other personal property of which deceased was competent to dispose, and general power to charge money on real property. See Division III, *supra*.

(g) Paragraphs 9, 10, 11, and 12.—Other settled property. See Division IV, *supra*.

(h) Paragraph 13.—Reference to section 20 of the Finance Act, 1894. See page 87.

(i) Paragraph 14.—Reference to section 21 of the Finance Act, 1896. See page 47.

(j) Account "A." Valuation of property. The items in this account are similar to those in Account "A" of Form "B-2."¹

(k) Account "B." See Division III, *supra*.

(l) Accounts "C" and "D" and Schedule "D." See Division IV, *supra*.

Aggregation

(m) Summary of accounts. See notes on "Aggregation" (page 50).

In the estate specified above (page 161) the aggregation would be as follows—

The free unsettled estate consists of the items

¹ Q.v., p. 150.

(a) + (b) + (d)—total £410—upon which a fixed duty of 50s. may be paid. This total being under £1,000 is an “estate by itself” within the meaning of section 16 (3) of the Finance Act, 1894, and not aggregable with any other property passing on the death.

The settled property consists of items (c) and (e).

As to item (c), assuming that C. D., the donor of the power, died on or before the 1st August, 1894, the property is liable to limited aggregation only, and the rate will be $2\frac{1}{2}$ per cent.

The property at item (e) is also liable to limited aggregation only, and the rate will be $1\frac{1}{2}$ per cent.

It is assumed that the deceased died on or *after* the 9th April, 1900, so that the Finance Act, 1900, applies.¹

(n) The summary of duty and interest—Form “No. 27”—should accompany this form.

FORM No. 22

When Applicable

This form is for use where the deceased had money in any Savings Bank or Friendly or Industrial and Provident Society, etc., and his whole estate is under £100 in net value.

Section 8 (1) of the Finance Act, 1894, declares that “the existing law and practice relating to any of the duties now leviable on or with reference to death shall, subject to the provisions of this Act, and so far as the same are applicable, apply for the

¹ But if the death be on or after the 19th April, 1907, then see Sect. 16 of the Finance Act, 1907, p. 56.

purposes of the collection, recovery, and repayment of Estate Duty, and for the exemption of the property of common seamen, marines, or soldiers who are slain or die in the service of His Majesty, and for the purpose of payment of sums under £100 without requiring representation, as if such law and practice were in terms made applicable to this part of this Act."

Various Acts of Parliament have provided that sums, not exceeding £100, in Savings Banks, Friendly Societies, etc., may be paid to the nominee of a deceased member, and, in case the member died intestate and without appointing a nominee, to the person appearing entitled by law to receive the same without taking out letters of administration. Where the deceased left a will, however, this provision does not apply and this form is inapplicable.

FORM A-4

When Applicable

This form is applicable where the whole estate passing on the death consists exclusively of free (not "settled") personal property under the deceased's will or intestacy situate in the United Kingdom, *except* where it is desired to pay the fixed duty of 30s. or 50s., in which case use Form "B-2."¹

Notes Thereon

(a) Paragraph 1.—Domicile. See note (a), Form "B-2," page 150.

¹ Q.v., p. 149.

(b) Paragraph 4.—General power of appointment.

If the deceased had such a power, and the remainders over in default of his exercise of it were to the deceased, his executors or administrators, then the property subject to the power is not treated as "settled" property, and this form seems to be applicable. And where the deceased had such a power and actually exercised it by his will, there seems no reason why the property should not be included in this form.

(c) Paragraphs 5 and 6.—Debts deductible. See page 78.

(d) Paragraph 8.—Other property.

This paragraph is inserted so as to give the accounting parties the option of not delaying their application for probate or letters of administration on account of certain of the property being unascertained as to amount or value. It is chiefly useful where part of the estate is the subject of litigation or adverse claims or the like, or the value cannot be readily ascertained.

If the other property consists of realty, then this form should not be used, but "A-6" is appropriate.

When the value or amount of the other property is ascertained, it should be accounted for upon a corrective affidavit, Form "D-1."¹

(e) Account "A." See notes (e), (f), (g), (i), and (j) at Form "B-2," pages 153-155.

Deduction of value of articles whereon the duty has been remitted by the Treasury. See page 133.

¹ *Q.v.*, p. 179.

(f) Schedule "B."—Debts deductible. See page 78.

(g) The summary of duty and interest—Form "No. 16"—should accompany this form.

FORM A-6

When Applicable

This form is applicable where the whole estate passing on the death consists exclusively of free (not "settled") real and personal property under the deceased's will or intestacy situate in the United Kingdom, *except* where it is desired to pay the fixed duty of 30s. or 50s., in which case use Form "B-2."¹

(a) Paragraph 1.—Domicile. See note (a), Form "B-2," page 150.

(b) Paragraph 4.—General power of appointment. See note (b), Form "A-4," page 166.

(c) Paragraphs 5 and 9.—Debts deductible. See page 78.

(d) Paragraph 7.—Reference to Land Transfer Act, 1897. See note (d), Form "B-2," page 152.

(e) Paragraph 10.—Other personal property. See note (d), Form "A-4," page 166.

(f) Paragraph 11.—Other real property.

Such will include any copyholds or customary freeholds expressly excluded from paragraph 7 (*q.v.*).

Estate Duty on Realty

(g) Paragraph 12.—Election to pay Estate Duty on real property.

¹ *Q.v.*, p. 149.

The deceased's executor or administrator is not (as such) accountable for Estate Duty upon the deceased's real property, including copyhold or customary freehold, and payment of such duty need not necessarily be made upon the affidavit. It is open to the accountable parties to defer payment until the expiration of a year from the death, from which date interest begins to run. The form to be used in such a case is "C-I."¹

But where the deceased died on or after 1st January, 1926, the executor is also accountable for Estate Duty upon land in England and Wales (including settled land) which devolves upon him by virtue of any statute or otherwise (Law of Property Act, 1925, section 16 (1)).

However, if the real estate be sold, or mortgaged, the duty should be at once accounted for, as it is due, and interest becomes payable, from the date of completion of the transaction, even though such takes place within a year from the death.

It was often found convenient to take advantage of this year's grace, especially in cases where it was proposed to sell the real estate within such period. Such generally obviated the necessity of a valuation being made, as the price realised at the sale was the best evidence of the value. But the present official practice is to refer all questions of value of real and leasehold property to the Valuation Department.

As to payment of Estate Duty on real estate by instalments, see page 86.

¹ *Q.v.*, p. 181.

(*h*) Paragraphs 13 and 14.—Debts deductible. See page 78.

Account "A"

(*i*) Account "A" (first part). See notes (*e*), (*f*), (*g*), (*i*), and (*j*) of Form "B-2" (pages 153-155).

(*j*) Account "A" (second part).

It will be observed that the whole of Account "A" includes the deceased's free real and personal property in respect of which the grant of probate or letters of administration is to be made, so that copyholds or customary freeholds were, before 1926, excluded. The latter class of realty is included in Account "B," together with the whole of the remaining realty.

(*k*) Schedule "A."—Debts deductible. See page 78.

Account "B"

(*l*) Account "B."—Real property.

This account should include the whole of the real property already referred to in Account "A" (second part), together with any property of copyhold or customary freehold tenure.

If it is *not* intended to pay the Estate Duty upon the real estate on the affidavit, such real estate should not be included in Account "B," but should be included in an account upon similar lines annexed to the affidavit.

When it is desired to pay the Estate Duty upon such real estate, the Form "C-1" in duplicate should be used (see page 181).

As to valuation of agricultural property, see page 75.

As to the payment of Estate Duty on real estate by instalments, see page 86.

(*m*) The summary of duty and interest—Form “No. 17”—should accompany this form.

FORM A-7

When Applicable

This form is applicable in all cases to original grants of representation where the deceased died after the 18th April, 1907, except where the Form “B-2,” “B-3,” “A-4,” or “A-6,” is applicable. (Form “A-3” is to be used where the death was before the 1907 Act.¹)

It is therefore to be used where there is “settled” property, and the case is *not* one for payment of the fixed duty of 30s. or 50s.

Scheme of the Form

Like Form “B-3,” this form deals with the estate under several divisions, thus—

Division I

All property passing on the deceased's death to his executors or administrators to which the grant of probate or letters of administration extends. (Account “No. 1” (first and second parts).)

This division is made for Probate Court purposes and does not affect the claims for duty.

It will include—

¹ Aggregation affected, see p. 55.

(a) The deceased's personal property situate, saleable, or transferable in the United Kingdom.

(b) The deceased's real property situate in England and Wales (except copyholds where the deceased died before 1926) and except where the death took place *before* the Land Transfer Act, 1897, came into operation, i.e. 1st January, 1898.

(c) Real and personal property situate as above over which the deceased had an absolute power of appointment where he actually exercised such power by his will.

The whole of the above property should be included in Account "No. 1," first and second parts.

The total of the personal property at (a) and (c) is included in paragraph 3 of the form, the debts thereon appearing in paragraph 5, and the total of the real property at (b) and (c) is included in paragraph 6. The *gross* total of (a), (b), and (c) is included in paragraph 7.

It was formerly considered that where the deceased *did* exercise the power of appointment over the property as at (c), such property was "settled." But this view has been adjusted, and the property treated as part of the deceased's free estate. Where, however, the deceased did *not* exercise the power by his will, the property is still treated as "settled."

Real property as at (c) should be included in the third and fourth parts of Account "No. 5," if it is desired to pay the duty thereon on the affidavit, and a separate statement attached showing the

particulars set out in the note appearing upon Account "No. 5."

In any event, as regards property over which the deceased had an absolute power of appointment, this is property of which the deceased was competent to dispose, and under section 8 (3) of the Finance Act, 1894, the executor is accountable for the Estate Duty upon such property, so far as it is *personal* property. The property is included in Account "No. 1," first part, where the deceased actually exercised the power of appointment by his will, and in Account "No. 3 (a)" where he did not so exercise the power. The executor has no choice but to pay the Estate Duty upon it upon the affidavit. But if it be real property, not falling within the provisions of the Law of Property Act, 1925, the executor is at liberty to leave the payment of the Estate Duty upon it to the trustees or other accountable parties under the will or deed by which the deceased derived his power of appointment.

It will, of course, be remembered that a gift of property to A for life, with remainder as he shall absolutely appoint, and, in default of appointment to A, his heirs, executors, or administrators, is an absolute gift to A, and such property should always be included as part of A's free unsettled estate.

Division II

All deceased's personal property situate out of, and not saleable or transferable in, the United Kingdom. (Account "No. 2.")

If the deceased died domiciled abroad this

property is not liable to Estate Duty. (See note (a) Form "B-2," page 150.)

Paragraphs 8, 9, and 10 refer to such property.

Division III

All personal property, not being free property, of which deceased was competent to dispose at the time of his death. (Accounts "Nos. 3 (a) and 3 (b).")

This division is made for the purpose of section 8 (3) of the Finance Act, 1894, above referred to. It defines the property, other than the free estate, upon which the executor is liable to pay the Estate Duty. Paragraphs 11 and 12 refer to such property. In cases of general powers of appointment, it will be noticed that the deceased's executor is liable for the Estate Duty thereon, whether the deceased exercised the power by his will or not.

Division IV

Other property passing, and copyhold property. (Accounts "No. 4" and No. "5" (second and fifth parts).)

Under this heading is included settled property of which the deceased was not competent to dispose at the time of his death, but in respect of which Estate Duty is payable on his death, and copyhold property. The executor is at liberty to pay the Estate Duty upon such property on the affidavit, or he may account for it separately on a "C-1" form (*q.v.*) page 181), or may leave it to

the parties accountable for the duty upon it to discharge such duty upon a "C-1" form.

Whether the executor elects to pay the Estate Duty upon such property or not, he is bound to give full particulars of it under section 8 (3) of the Finance Act, 1894.

The property is referred to in paragraph 14 of the affidavit, and the executor gives notice of his election to pay the Estate Duty thereon in paragraph 15. Paragraphs 16 and 17 refer to any debts or incumbrances upon such property.

Example

The following is a concrete example of the above classification—

The property passing on the death and liable to Estate Duty is—

(a) Personal property belonging absolutely to the deceased: stocks, shares, cash, furniture, leaseholds, etc.	£6,000
(b) Real property belonging absolutely to the deceased, he having died <i>after</i> the commencement of the Law of Property Act, 1925—	
Real property	1,500
(c) Under the will of C. D. (<i>ob.</i> 1890) the deceased had an absolute power of appointment over a sum of £1,000 invested on mortgage, and, in default of exercise of the power, the fund passes to the deceased's brother. The deceased <i>did</i> exercise the power by his will	1,000
(d) Within 12 months of his death the deceased made a gift of £150 to his wife	150
(e) Under the will of E. F. (<i>ob.</i> 1890) the deceased was tenant for life of "Blackacre" with remainder to his children.	5,000
(f) By his marriage settlement the deceased settled a policy of insurance upon his own life with bonuses upon trust to pay the income of the policy moneys when received to his wife for life, remainder to his children	2,500
Division I as above will include (a) + (b) (2) + (c) total	8,000
Division II as above will include	<i>nil</i>
Division III as above will include (c)	1,000

Division IV as above will include (b) + (d) + (e) + (f)	
total	£8,150
The various accounts of the affidavit will run as follow—	
Account "No. 1" (first part) will include—	
Free personal property as at (a)	6,000
Personal property over which the deceased had, and exercised by will, an absolute power of appointment as at (c)	1,000
Gross total of Account "No. 1" (first part), to be carried to par. 3 of the affidavit	7,000
Deduct (see note (f), page 4 of the affidavit) the above fund of £1,000, which is not fully aggregable	1,000
Leaving to be carried to Part I of the summary	6,000
Account "No. 1" (second part) will include—	
Real property	1,500
Account "No. 2" will include	<i>nil</i>
Account "No. 3 (a)" will include—	
Personal property over which the deceased had, but did not exercise by will, an absolute power of appointment	<i>nil</i>
Account "No. 4" will include—	
Inter vivos gifts as at (d)	150
Marriage settlement funds as at (f)	2,500
	<hr/> 2,650
Account "No. 5" will include—	
First Part.—Real property as at (b)	1,500
Fifth Part.—Real property as at (e)	5,000
	<hr/> 6,500

The executor is at liberty to pay the Estate Duty upon all the above properties on the Inland Revenue affidavit, but he is only bound to pay the Estate Duty upon (a), (b), and (c). If he elects *not* to pay the Estate Duty upon (d), (e), and (f), these properties should not be included in Accounts "No. 4" and "No. 5," but should be fully described in similar accounts attached to the affidavit by way of exhibit.

As to aggregation, see page 50.

Other Notes

To deal with other points arising on this form—

(a) Paragraph 1.—Domicile. See note (a), Form "B-2," page 150.

(b) Paragraph 3. See Division I, *supra*.

(c) Paragraph 6.—(1) Reference to Land Transfer Act, 1897. See note (d), Form “B-2,” page 152.

(2) Real property over which the deceased exercised by will an absolute power of appointment. See Division I, *supra*.

(d) Paragraph 7.—Total of property in respect of which the grant is to be made. See Division I, *supra*.

(e) Paragraphs 8 and 9.—Foreign property.

If the deceased died domiciled abroad, this property is not liable to Estate Duty. See note (a), Form “B-2,” page 150.

Deduction of foreign duty and additional expenses of administration. See page 87.

(f) Paragraphs 11 and 12.—Other personal property of which the deceased was competent to dispose. See Division III, *supra*.

(g) Paragraph 13.—Other property in respect of which the deceased’s executor is liable for the Estate Duty. See note (d), Form “A-4,” page 166.

(h) Paragraphs 14, 15, 16, and 17.—Other property generally. See Division IV, *supra*.

(i) Paragraph 18.—Reference to section 20 of the Finance Act, 1894. See page 87.

(j) Paragraph 19.—Reference to section 21 of the Finance Act, 1896. See page 47.

(k) Account “No. 1” (first part). See notes (e), (f), (g), (i), and (j), Form “B-2,” pages 153–155.

Deduction of value of articles whereon the duty has been remitted by the Treasury. See page 33.

(*l*) Account "No. 1" (second part). See Division I, *supra*.

(*m*) Schedule "No. 1."—Debts deductible. See page 78, and particularly note (*b*) there.

(*n*) Account "No. 2" and Schedule "No. 2."—Foreign property. See Division II, *supra*.

(*o*) Accounts "Nos. 3 (*a*) and 3 (*b*)."
See Division III, *supra*.

If any of the beneficiaries to whom this class of property passes on the death of the deceased have predeceased him, refer particularly to notes at page 28.

(*p*) Account "No. 4." See Division IV, *supra*, and last note, (*o*).

(*q*) Account "No. 5."—Real estate.

As to valuation of agricultural property, see page 75.

As to payment of Estate Duty on real estate by instalments, see page 86.

If it is not desired to pay the Estate Duty upon the real estate on this affidavit, Account "No. 5" should not be filled up, but accounts upon similar lines should be attached by way of schedules, and, when the duty is subsequently accounted for, the Form "C-1" in duplicate should be used. (See page 181.)

If any of the beneficiaries to whom the settled real estate passes on the death of the deceased have predeceased him, refer particularly to notes at page 28.

(*r*) Summary of Affidavit. See "Aggregation," page 55.

(s) The summary of duty and interest—Form “No. 28”—should accompany this form.

FORMS Y-1 AND Z-1

These forms do not call for any special remarks.

FORM A-5

When Applicable

This form is to be used upon application for a second or subsequent grant of representation (“double probate,” “administration of the unadministered estate,” or “cessate administration,” as the case may be). Where the unadministered estate was not within the operation of the previous grant, the appropriate form of affidavit as for an original grant should be used.

Memorial for Duty Paid Certificate

The form, duly deposed to by the executor or intending administrator, should be accompanied by a memorial to the Commissioners of Inland Revenue setting forth the reasons under which the application is made. The memorial should disclose in detail—

- (a) The name and address of the deceased.
- (b) Date of his death, and date and place of grant of representation to his estate.
- (c) Name and address of executors or administrator to whom the original grant was made, with dates when any such died.
- (d) Full particulars of the estate included in the original affidavit.

(e) Full particulars of the estate left unadministered. Where the unadministered estate is an investment of part of the original estate, particulars of the change should be given, so that the investment may be identified with that part of the original estate which it represents.

It must be remembered that only particulars of the *unadministered* estate should appear in the form.

The form, with the memorial, having been lodged at the Estate Duty Office, is compared with the original affidavit, and, if found correct, the appropriate certificate on the back is filled up and signed and transmitted to the parties.

The Official Instructions and a Model Memorial are printed in the Appendix, page 323.

FORM D-1

When Applicable

This form of corrective affidavit is for use where too little or too much Estate Duty has been paid upon the Inland Revenue affidavit.

Where the correction is desired to be made in respect of property included in or erroneously omitted from an Estate Duty "Account" (Form "C-1") use the Form "D-2" (page 184).

When Further Duty to be Paid

1. If further duty is to be paid the following details require attention—

(a) Form to be delivered *in duplicate*, but neither copy need be sworn in the first instance.

(b) Full details of the circumstances in which the necessity for correction arises should appear in the appropriate space at foot of page 2 of the form.

(c) The same rules as to valuation of property not already accounted for apply as in the case of the original Inland Revenue affidavit. But if the property consists of a reversionary interest which is being accounted for upon the death of the life tenant, it should be valued *as at the date of such life tenant's death*, all accretions of income after such date being ignored.¹

(d) Where for the first time real property is being accounted for, this form is not applicable, but Form "C-1" should be used.

(e) When the further duty is being paid, the probate or administration should be forwarded to the office, in order that the certificate thereon as to payment of Estate Duty may be corrected.

When Return Being Applied for

2. If a return of duty is being applied for—

(a) The form should be deposited by the deceased's executors or administrator, but need not be in duplicate. Generally, the deposition of one of the executors is accepted in simple cases. As to payment to their solicitor or agent see below (d).

(b) The form should be accompanied by the probate or administration.

(c) Evidence in support of the claim should be

¹ *In re Colonel Eyre* (deceased), [1907] 1 K.B. 331.

furnished. The claim is most commonly made for return of duty upon the ground of additional debts having been discovered, decrease on realisation of assets the value of which was incorrectly estimated, and the like.

If the claim for return of duty be upon the ground of decrease on sale of real and leasehold property, the matter is referred to the Valuation Department.

(*d*) The accounting parties may give their authority to their solicitor or agent to receive the return. But where there are outstanding claims for which the parties are accountable the duty returnable will be applied towards, or in satisfaction of, such claims.

(*e*) The interest returned is only such proportion as has been actually paid. Thus, suppose 100 days' interest has been paid upon the Estate Duty on the Inland Revenue affidavit, the amount of interest returnable will be calculated for 100 days upon the amount of Estate Duty returnable.

FORM C-1

When Applicable

This form is for payment of Estate Duty upon property passing on the death where such duty has not been paid on the affidavit leading to the grant.

Where the property has been erroneously omitted from the Inland Revenue affidavit and passes under the deceased's will or intestacy, then the appropriate form is a corrective affidavit

("D-1," page 179); but this form applies for payment of Estate Duty upon the deceased's free real estate where the duty on such has not been elected to be paid on the Inland Revenue affidavit (see page 168).

The form is most commonly used for payment of Estate Duty upon—

- (a) Real property as above.
- (b) Property passing under marriage or voluntary settlements, and
- (c) Property of which the deceased was tenant for life.

The following points require attention on filling up the form—

Dead Beneficiaries

- (a) Names of beneficiaries.

It is most important that the names of all dead beneficiaries who took vested interests in any part of the property passing, together with the respective dates of deaths and of representation, should appear on the account. The cases of *Commissioners of Inland Revenue v. Priestley* (page 29) and *Attorney-General v. Dodington* may apply to the shares of any such dead beneficiaries, so that the duty payable on the property may be materially affected.

The account should also show whether any beneficiary has *bonâ fide* mortgaged his or her share for full consideration, and, if so, the date of the transaction. As to the effect of such a transaction, see page 38. Any other dealings by beneficiaries

with their shares, such as settlements of same, should be fully disclosed.

Value of Property

(b) Value of property.

The property must be valued as at the date of the deceased's death as in the cases of Inland Revenue affidavits (see page 153).

Where the account is being delivered in respect of the proportion of a legacy or share of residue attributable to proceeds of real estate (a mixed fund of proceeds of real estate and personalty being created), see page 35.

Accountable Parties

(c) Accountable parties.

The trustees of the will or settlement are the proper persons to deliver the account and pay the duty; but if they are dead or there is difficulty in obtaining their depositions, that of one or more of the beneficiaries will generally be accepted.

Other Property, etc.

(d) Other property passing.

Where the deceased's will has not yet been proved or administration to his estate granted, it is always advisable that an estimate of the value of his free estate, and of any other property passing on his death, be given. By reason of aggregation, the rate of Estate Duty may be affected.

(e) Debts deductible. See notes on Estate Duty, page 78.

(f) Allowances under section 21 of the Finance Act, 1896 (see page 47).

(g) Instalments of duty upon real estate (see page 86).

FORM D-2

When Applicable

This form of corrective account is for use where too little or too much Estate Duty or Settlement Estate Duty has been paid upon an "Account." It is therefore supplemental to Forms "C-1" and "C-2."

Where it is desired to correct both an Estate Duty account and a Settlement Estate Duty account, in respect of the same property, one form of account (in duplicate or not as the case requires) will suffice.

When Further Duty to be Paid

I. If further duty is to be paid, the following details require attention—

(a) Form to be delivered in duplicate, but neither copy need be sworn in the first instance.

(b) Full details of the circumstances in which the necessity for correction arises should appear in the appropriate space at foot of page 2 of the form.

(c) The same rules as to valuation of property not already accounted for apply as in the case of an Inland Revenue affidavit (see page 153). But if the property consist of a reversionary interest which is being accounted for upon the death of the

life tenant, it should be valued *as at the date of such life tenant's death*, all accretions of income after such date being ignored.

When Return Being Applied for

II. If a return of duty is being applied for—

(a) The form should be deposited to by the accountable parties, but need not be in duplicate. Generally, the deposition of one of the accountable parties is accepted in simple cases, but if acting as trustees, all of them must join in the receipt for the duty to be returned. As to payment to their solicitor or agent, see note (d), Form “D-1,” page 181.

(b) The form should be accompanied by the former stamped account or accounts.

(c) As to evidence in support of the claim and payment to a solicitor, see notes (c) and (d), Form “D-1,” page 180.

FORM C-3

When Applicable

This form is for payment of second and subsequent instalments of Estate Duty or Settlement Estate Duty.

If both kinds of duty are being accounted for, separate forms should be used.

As to payment of Estate Duty upon real property or annuities or other definite annual sum, see page 86.

Where the Estate Duty is properly payable by instalments, the Settlement Estate Duty in respect

of the same property may be paid by similar instalments.

The form does not call for further remark.

(e) SETTLEMENT ESTATE DUTY FORMS

There are only three forms in use relating to Settlement Estate Duty, viz.—

“C-2.” In duplicate. Account for payment of Settlement Estate Duty.

“C-3.” Account for payment of second and subsequent instalments of Settlement Estate Duty upon real property.

“D-2.” In duplicate only where further duty is to be paid. Corrective account where too much or too little Settlement Estate Duty has been paid.

N.B.—The two latter forms are the same as those used in similar cases of Estate Duty.

All the forms can be obtained at any Head Post Office outside the Metropolitan Postal District, or from the Controller, Estate Duty Office.

FORM C-2

This account must be delivered in duplicate, one copy being sworn by the trustees of the will or settlement. Generally, where the values already appear from the Inland Revenue affidavit or Estate Duty account, the deposition of one of the trustees will be accepted.

Valuation of Property

The property must be valued according to its principal value *as at the date of the death of the*

deceased. If a different value is placed upon the property in the account from that stated in the Inland Revenue affidavit or Estate Duty account, some explanation of the difference should be given.

Settled Annuities

Where the claim arises in respect of an annuity, the particulars of property to be included in the account will take the following forms—

(a) Gift of an annuity with express direction to set apart capital to meet it. The “property” will be details of the capital actually set apart.

(b) Gift of an annuity with implied direction to set apart capital. The “property” should be calculated by stating a capital sum sufficient, upon a 3 per cent basis, to meet the annuity. If the parties can show, however, that the estate produces, in trustee investments, a higher rate than 3 per cent, such higher rate may generally be used as the basis of calculation.

(c) Gift of an annuity of, say, £20 chargeable upon specific real property producing £60 per annum *net*, and valued in the Inland Revenue affidavit or Estate Duty account at twenty years’ purchase. The property chargeable with Settlement Estate Duty is so much of the specific realty as is necessary to produce £20 per annum, i.e. in this case $\frac{2}{3}$ ths, or one-third of £1,200 = £400, from which the Estate Duty proportionately paid upon such £400 may be deducted.

deceased. If a different value is placed upon the property in the account from that stated in the Inland Revenue affidavit or Estate Duty account, some explanation of the difference should be given.

Settled Annuities

Where the claim arises in respect of an annuity, the particulars of property to be included in the account will take the following forms—

(a) Gift of an annuity with express direction to set apart capital to meet it. The “property” will be details of the capital actually set apart.

(b) Gift of an annuity with implied direction to set apart capital. The “property” should be calculated by stating a capital sum sufficient, upon a 3 per cent basis, to meet the annuity. If the parties can show, however, that the estate produces, in trustee investments, a higher rate than 3 per cent, such higher rate may generally be used as the basis of calculation.

(c) Gift of an annuity of, say, £20 chargeable upon specific real property producing £60 per annum *net*, and valued in the Inland Revenue affidavit or Estate Duty account at twenty years’ purchase. The property chargeable with Settlement Estate Duty is so much of the specific realty as is necessary to produce £20 per annum, i.e. in this case $\frac{2}{3}$ ths, or one-third of £1,200 = £400, from which the Estate Duty proportionately paid upon such £400 may be deducted.

Settled Residue

Where the settled property is a residuary gift or a share thereof, a statement should be annexed showing how the residue is arrived at. The statement should take the following outline—

Gross personal estate as per Inland Revenue affidavit	£
<i>Deduct</i> —Debts and funeral expenses	£
Estate Duty paid on personal estate	.
Cost of obtaining probate	.
Legacies, etc.	.
Executorship expenses	.
Total deductions	_____
Leaving net personalty settled	£
Gross real estate as per Inland Revenue affidavit	£
<i>Deduct</i> —Mortgages	£
Estate Duty paid on real estate	.
Total deductions	_____
Leaving net realty settled	_____
Total settled property	£ _____

It will be noticed that the personalty and the payments properly attributable thereto should be kept distinct from the realty and the payments properly attributable thereto. Interest upon the duty payable upon the net realty will not begin to run until the expiration of a year from the death (unless the realty be sold within such period): while interest on the duty payable upon the net personalty becomes chargeable from the date of the death.

Reversions

When Settlement Estate Duty is being accounted for upon a reversion which has fallen into possession (payment of the Estate Duty thereon having been deferred until the death of the life tenant), the valuation of the property will proceed upon the same lines as for Estate Duty purposes, viz., as at the date of the life tenant's death.

Deduction of Estate Duty

Estate Duty may *not* be deducted in a Settlement Estate Duty account of personal estate (including leaseholds) unless the will of the deceased specially charges the Estate Duty upon the settled property: or the property be a residuary estate.

Estate Duty may be deducted in a Settlement Estate Duty account of real estate.

FORM C-3

Applicable to Instalments of Duty

This form is for payment of second and subsequent instalments of Settlement Estate Duty upon real property.

As we have already noted,¹ the Settlement Estate Duty upon real property may be paid, as in the case of Estate Duty, by eight equal yearly or sixteen half-yearly instalments, unless the property is sold, in which case the whole remaining duty shall be paid upon the completion of the sale.

The form requires no further notice, but it may be stated that the Estate Duty Office is under no liability to notify the parties as instalments become

¹ See p. 98.

due from time to time. As a matter of practice, notification is sent to the parties as and when each instalment becomes payable, but the parties should themselves deliver this form when necessary.

FORM D-2

This form is for use where too little or too much Settlement Estate Duty has been paid upon the Settlement Estate Duty account.

As before noted, the form is equally applicable in cases of correction of Estate Duty where such duty has been paid upon an "Account," and it has already been dealt with in "Estate Duty Forms" (*supra*, page 184).

(f) LEGACY DUTY FORMS

These forms are as follow—

"No. 1." To be used: (1) For specific and pecuniary legacies (except where the Form "No. 11" is appropriate).

(2) For shares of residue, where the amount of the residue has been arrived at by a general account on the Form "No. 3," and

(3) In duplicate. For an account supplemental to a "No. 3" Form.

"No. 2." For duty on annuities, and instalments of duty thereon (except where the Form "No. 12" is appropriate).

"No. 3." In duplicate. For general residuary accounts.

"No. 3-1." In duplicate. The like on death of a life tenant.

“No. 8.” In duplicate. For proceeds of sale or principal value of real property directed by will to be sold.

“No. 11.” For pecuniary legacies and shares of residue when payable out of a blended fund arising from real estate directed to be sold and personal estate, or out of real estate in aid of personal estate.

To be used *only* where the testator died after 30th June, 1888, and before 2nd August, 1894.

“No. 12.” For duty on annuities (and instalments of same) where the annuities are payable out of a blended fund arising from real estate directed to be sold and personal estate, or out of real estate in aid of personal estate.

To be used *only* where the testator died after 30th June, 1888, and before 2nd August, 1894.

“H.” For claiming a return of Legacy Duty.

The forms can be obtained at any Head Post Office outside the Metropolitan Postal District, or from the Controller, Estate Duty Office.

FORM No. 1

When Applicable

This form is to account for duty on specific legacies, and on pecuniary legacies payable out of real and personal estate where the testator died prior to 1st July, 1888, or after 1st August, 1894; or, where the testator died between those dates, wholly out of real estate or the proceeds of sale thereof, or wholly out of personal estate.

It will be noticed that the form is applicable to Legacy or Succession Duty; legacies payable out

of real estate or proceeds thereof being liable to Succession Duty where the testator died after 30th June, 1888 (see page 116, where the necessity for the "composite" Form "No. 11" is explained).

Where a residuary account ("No. 3" Form) is being delivered, and all the residuary legatees are not liable to the same rate of duty, this form may be used as supplemental to the "No. 3" Form to account for the share of any particular beneficiary.

If a residuary account has already been delivered this form (then in duplicate) was formerly used as a supplement account on the death of a life tenant of the residuary estate or of any specific portion of the estate already accounted for. Now, however, Form No. 3-1 applies.

Exemptions

- (a) Exemption from Legacy Duty (see page 116).

Valuation of Property

- (b) Valuation of property.

(1) Where the property is first being accounted for on the death of the testator.

In this case, the property should be valued at the time of payment to or retainer for the benefit of the legatee, which is deemed, in general practice of the office, to take place *at the date of delivery of the account*, unless it appear that such payment or retainer was previously made.

Accretions of income in the meantime must be added.

The method of valuing stocks and shares must

be the same as that directed in Inland Revenue affidavits (see page 197), except that the date of retainer or of delivery of the account should be substituted for the date of death as the day on which the prices are to be taken.

Specific legacies of stocks and shares carry the interest or dividends from the day of the testator's death. Any such interest or dividends accrued up to the death of delivery of the account should accordingly be included as part of the legacy.

Interest at 3 per cent per annum upon the duty, calculated from the expiration of the "executor's year" or previous retainer, is charged when the account is in respect of an ordinary legacy not carrying income in the meantime.

(2) Where the property, already accounted for, is paying duty on the death of a life tenant, annuitant, etc.

Here, the property must be valued *as at the date of the life tenant or annuitant's death*, income accrued since such death being omitted. Interest on the duty from such date up to the date of delivery of the account is chargeable.

Deductions

(c) Deductions.

Any Estate Duty payable out of the legacy (as in the case of a legacy payable out of real estate bearing its proportion of Estate Duty paid) may be deducted. Settlement Estate Duty payable out of the legacy may also be deducted. Where the legacy is given free from such duties the deduction

should not be made. In the case of Settlement Estate Duty, where the testator died before or after 1st July, 1896, see page 102.

Where the account is being delivered on the death of a life tenant, annuitant, etc., the reasonable costs of preparing and delivering the account may also be deducted.

(d) Rates of duty (see page 102).

FORM No. 2

When Applicable

This form is for payment of Legacy or Succession Duty upon annuities, except where Form "No. 12" is applicable (see page 201).

Valuation of Property

(a) Value of the annuity.

The value is calculated according to the tables annexed to the Succession Duty Act, 1853, which provide for the valuation of annuities held for a single life, for the joint continuance of two or more lives, for the longest of two or more lives, and for any fixed number of years.

But as to legacies given to purchase annuities, see page 108.

Deductions

(b) Deductions.

Any Estate Duty payable out of the annuity (as in the case of an annuity charged upon real estate bearing its proportion of Estate Duty paid) may be deducted. Settlement Estate Duty payable out

of the fund upon which the annuity arises may also be deducted. In the case of Settlement Estate Duty, where the testator died before or after 1st July, 1896, see page 102.

The deduction for such duties may be made by calculating the current rate per cent upon the duties paid, and deducting such amount from the annuity itself. Thus £1,000, producing £40 per annum, given to A for life by way of annuity. Four per cent upon £20 Settlement Estate Duty = 16s., so that the value for Legacy Duty is of an annuity of £39 4s. for the life of A.

Instalments, etc.

(c) Payment by instalments (see page 106).

The second and subsequent instalments should be accounted for upon the same form.

(d) Rates of duty (see pages 114, 115).

(e) As to gifts of residue where the duty is payable by way of annuity, see page 198.

FORMS No. 3 AND No. 3-1

When Applicable

These forms are to account for Legacy and Succession Duty upon a deceased's general residuary estate. This will include all his personal estate, and, where same forms part of the residuary estate, all moneys arising from the sale, mortgage, or other disposition of his real estate.

Where the proceeds of the real estate directed to

be sold do not form part of the general residuary estate, but are separately given, they should be accounted for on Form "No. 8" (page 215).

Valuation of Property

(a) Valuation of property.

(1) Where the property is first being accounted for on death of the testator.

The property should be valued as at the time when it is paid over to, or retained for the benefit of, the persons entitled, which is deemed, in general practice of the office, to take place *at the date of delivery of the account*, unless it appear that such payment or retainer was previously made. All accretions of income meantime should be added on page 3.

The right of the Revenue to interest upon or accretions to the estate was laid down in *Attorney-General v. Cavendish* (Wight 82).

But if advances have been made to the beneficiaries before delivery of the residuary account, the duty upon such should be accounted for at the time such advances were made. Interest upon the duty is calculated from the date of the advance up to delivery of the account.

Having regard to the necessary *day of valuation*, the method of valuing the different classes of property will be the same as that in the Inland Revenue affidavit (see page 206).

The description of the property should be identical with that in the Inland Revenue affidavit.

The Apportionment Act (33 & 34 Vict., c. 35)

provides that "all rents, annuities, and other periodical payments in the nature of income . . . shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly." It is not necessary, however, to make any apportionment of accruing dividends on stocks valued according to the market price of the day, as that is already taken into account in the quotation; but where the stock, at the time of valuation, is quoted "ex div.," the whole of the dividend must, of course, be included.

(2) Where the property, already accounted for, is paying duty on the death of a life tenant. Here use Form "No. 3-1."

The property should be valued *as at the date of the life tenant's death*, income accrued since such death being omitted. Interest on the duty from such date up to the date of delivery of the account is chargeable.

In this case, Form "No. 3" is useful as a means of tracing the history of the funds since the testator's death, but in simple cases where the funds can be identified with those included in the original affidavit or residuary account, the Form "No. 3-1" (in duplicate) will be found more advantageous. Schedules can be attached giving particulars of the property, and the form should be signed by the trustees and dated. The schedule of payments will be different from the case of an original account, as it will only include any actual reasonable costs of preparing and passing the account and any

legacies payable out of the fund on the life tenant's death.

(3) Where the duty is payable upon the residuary estate by way of annuity.

In this case the Form 3 is really a schedule to Form "No. 2," and, as the annuitant pays duty upon the value of his life interest calculated at the day of the testator's death, the Form "No. 3" should finish at the foot of page 2 thereof, all income accrued since the death being ignored. The valuation of securities retained should be made as at the day of the testator's death, the income produced therefrom appearing in a schedule to the account. Such income, together with that arising from any substituted securities and an addition of the current rate of interest upon any uninvested cash, will give the amount of the annuity to be inserted in the "No. 2" Form. The age of the annuitant in such form will, of course, be given as at the testator's death.

Deductions for Payments Made

(b) Payments.

(1) Probate or administration.

This item should include Estate Duty paid and costs of proving the will or obtaining letters of administration. Estate Duty upon real estate not included in the account should not be deducted, unless the same is specially charged upon the residuary estate or any property included in the account.

(2) Funeral expenses.

These are generally the same as have been allowed in the Inland Revenue affidavit, but, *as a matter of grace only*, a deduction for strictly reasonable costs of mourning is sometimes sanctioned. The cost of a tombstone cannot be allowed unless the will contains an express sanction.

(3) Executorship expenses, etc.

The actual reasonable expenses incurred up to date of delivery of the account may be deducted. Costs of sale of real estate directed to be sold, the proceeds forming part of the property in the account, may be included.

(4) Debts.

These may include items not allowed as deductions against Estate Duty—such as voluntary debts—there being no such restrictions against deduction of debts against Legacy Duty as there are against Estate Duty.

(5) Pecuniary legacies.

Where these are bequeathed free from Legacy Duty, the duty paid should be added to the legacies.

Accretions Since Death, etc.

(c) Accretions since death and payments thereout.

As stated above (page 196) all accretions of income from date of death up to the time of retainer (date of delivery of the account) must be included as part of the residuary estate. It is important that full particulars of each item of accrued income appear in the account or appropriate schedules.

Interest on cash in hand from time to time should also be brought into the account.

Where legacies are given payable upon the happening of some future event, and the legatee does not take the income meantime, so that it falls into the residuary estate, such income must be included.

The payments out of interest must only include those in respect of property included in the account; thus, interest on mortgages on real estate separately accounted for does not form a good deduction in this account.

Deductions from Residue

(d) Deductions from residue.

Capital actually set apart in authorised investments to meet any annuities payable out of the residue, or, if not so set apart, calculated upon the current rate of interest, may be deducted; in which case, further duty becomes payable on the fund on the death of the annuitant. But, with a view of closing the estate, the Estate Duty Office permits accounting parties to deduct the value only of the annuities. Such value should be calculated in accordance with the tables annexed to the Succession Duty Act, 1853, taking the age of the annuitant as at the date of delivery of the account. Of course, if the annuitant has died since the death and before the delivery of the account, no deduction can be made. The deduction of the value only of an annuity cannot be claimed as a matter of right; but it is generally allowed where the

annuitant is in ordinarily good health, and the annuity not of very large amount.

(e) Rates of duty (see pages 114, 115).

FORMS No. 11 AND No. 12

When Applicable

These forms are only to be used for legacies or annuities when payable out of blended funds arising from real estate directed to be sold and personal estate, or charged upon real estate in aid of personal estate, *where the testator died after 30th June, 1888, and before 2nd August, 1894.*

Such part of the legacy or annuity as is attributable to personal estate pays Legacy Duty, and such part as is attributable to real estate pays Succession Duty at the higher rates imposed by the Customs and Inland Revenue Act, 1888.

The rules for delivering "No. 1" and "No. 2" Forms apply equally to these forms; it is only necessary to make an apportionment of the legacy or annuity between realty and personalty. Thus, a testator gives his residuary personal estate, after payment of debts, legacies, etc., and his real estate upon trust for sale and out of the proceeds a legacy of £400 to A. The residuary personal estate amounts to £500 and the real estate to £1,000. Here the proportion of the £400 attributable to personalty is $\frac{500}{1500}$ or one-third, the remaining two-thirds being attributable to realty.

It should be remembered that these forms do *not* apply in cases like the following: A testator, dying after 30th June, 1888, and before 2nd August, 1894,

bequeaths a legacy of £400 payable out of a blended fund to his brother, A, for life, with remainder to B, a stranger. Here the duty upon A's life interest is payable by way of annuity upon Form "No. 12." Upon A's death, after the 1st August, 1894, the property passing to B, it is not necessary to deliver the composite Form "No. 11" to account for the Legacy and Succession Duty, as the part attributable to real estate must pay Estate Duty under the Finance Act, 1894, and so becomes exempt from the higher rate of Succession Duty. The whole fund accordingly pays, in addition to Estate Duty, one rate of Legacy and Succession Duty at 10 per cent, and the ordinary Form "No. 1" is appropriate.

FORM H

When Applicable

This form of affidavit is to be used in applying for repayment of either Legacy, Succession, or Account Duty.

It may be stated that returns of duty upon the ground that the assessment was excessive will not be made where the assessment was arrived at by agreement with the accounting parties; or where, by lapse of time, or other cause, the evidence now procurable as to the assessment is of small or doubtful value.

Return of Duty

Where a return of Legacy or Succession Duty is applied for on the ground that too high a rate of duty was paid, the affidavit should be accompanied

by evidence in support of the claim, and the stamped account on which the duty was paid. A fresh account showing the proper rate of duty should be delivered at the same time.

Applications for return of Account Duty should be accompanied by any deeds or duplicate accounts which may bear a certificate of payment of the duty.

Unless all the accounting parties make the application and give their joint authority to the solicitor or agent to receive the return, the money is generally repaid to the solicitor only upon signature of the accounting party who did not join in the application. But where the money allowed is to be wholly applied in paying some other outstanding duty, the signature of the latter accounting party *may* be dispensed with.

(g) SUCCESSION DUTY FORMS

These forms are as follow—

“No. 1.” For pecuniary legacies payable wholly out of real estate or the proceeds of sale thereof, where the testator died on or after 1st July, 1888.

“No. 2.” For instalments of duty on annuities charged wholly on real estate by the will of any person dying on or after 1st July, 1888.

“No. 4.” In duplicate. For personal property under *settlement* (including money charged upon or arising from the sale of real property, and the proceeds of sale of church patronage) where the property is at once taken absolutely, or by different

persons in succession, all liable to duty at the same rate, and the duty is chargeable upon the capital.

"No. 5." In duplicate. For personal property under *settlement*, where the duty is chargeable by way of annuity.

"No. 6-1." In duplicate. For real property (including leaseholds) where the deceased died after 1st August, 1894, and the successor is *competent to dispose* of the property within the meaning of the Finance Act, 1894.

"No. 6." In duplicate. For real property (including leaseholds) except where Form "No. 6-1" is applicable.

"No. 7." For second and subsequent instalments of duty; to follow the Form "No. 6."

"No. 7-1." For second and subsequent instalments of duty; to follow the Form "No. 6-1."

"No. 8." In duplicate. For the proceeds of sale or principal value of real property directed to be sold or sold under a power.

"No. 9." In duplicate. For cesser of terminable charges upon real property.

"No. 10." In duplicate. For the proceeds of sale of timber.

"No. 11." For pecuniary legacies and shares of residue when payable out of a blended fund arising from real estate directed to be sold and personal estate, or out of real estate in aid of personal estate. *To be used only where the testator died after 30th June, 1888, and before 2nd August, 1894.*

"No. 12." For instalments of duty on annuities

where the annuities are payable and where the testator died, as in the last form.

“No. 19.” In duplicate. For duty payable in expectancy.

“H.” For claiming a return of Succession Duty.

All the above forms (except “No. 19”) can be obtained at any Head Post Office outside the Metropolitan Postal District, or from the Controller, Estate Duty Office. Form “No. 19” can only be obtained direct from the Controller, Estate Duty Office.

FORMS No. 1 AND No. 2

These forms are for use where the Succession Duty claim arises under a will; if under a deed, Forms “No. 4” and “No. 5” are applicable.

The forms are the same as if Legacy Duty upon a pecuniary legacy or an annuity payable by will out of pure personal estate were being accounted for; reference should therefore be made to the Legacy Duty Forms, where instructions respecting these forms are given (see page 190).

FORM No. 4

When Applicable

This form is to account for Succession Duty upon personal property passing under a deed but it is also applicable to account for the proceeds of sale of church patronage whether derived under will or deed. Such church patronages are only liable to Succession Duty if and when sold.

It is only to be used where the duty is chargeable upon the *capital* of the property, viz.—

(1) Where the property passes absolutely to the person entitled, or

(2) Where the property passes to one or more persons for a life or lives, and afterwards to others, all the persons being liable to duty *at the same rate*.

The form does *not* apply to leasehold property, for which Form “No. 6-1” would be appropriate.

As to exemption from the 1 per cent Succession Duty where Estate Duty has been paid, see page 42. It may be emphasized that the exemption from Succession Duty conferred by section 16 (3) of the Finance Act, 1894, where the deceased's estate does not exceed £1,000, only applies to property passing under his will or intestacy, and *not* to property passing under settlements (see page 43). And as to any other exemptions, see page 135.

Who is the Predecessor ?

(a) The predecessor.

The rate of duty depending upon the relationship between the predecessor and the successor, the question as to who is the predecessor is important. It is fully dealt with at page 123 (*q.v.*).

Valuation of Property

(b) Valuation of property.

The valuation must be made as at the date of the death of the deceased when the successor became entitled to the benefit of the property.

The method of valuing stocks and shares must

be the same as that directed in Inland Revenue affidavits, from which the following note is taken—

“*Market Price of Stocks, etc.* Where there is a public quotation, a price one-quarter up from the lower to the higher of the official ‘closing prices’ should be adopted as an estimated price. For example: Where the ‘closing prices’ were ‘98—100,’ the market price is $98 + \frac{100 - 98}{4} = 98\frac{1}{2}$.

Where the death occurred on a Sunday, or other day for which no prices are available, the price for the day before should be taken.”

Where the stocks or shares are not quoted in the Official Stock Exchange List, published quotations or brokers’ certificates, or letters from the secretaries of companies showing the market price at the date of the death should be attached.

Income accrued *since* the date of the death should not be included.

Interest at 3 per cent per annum from the date of the death is charged upon the duty, at 4 per cent from 30th July, 1919, and 3 per cent from 26th April, 1933.¹

Deductions

(c) Deductions.

Any mortgages or incumbrances upon the property *bonâ fide* incurred by the predecessor and charged upon the property may be deducted.

Estate Duty paid under the settlement and remaining a charge upon the property, together

¹ Section 43, Finance Act, 1933.

with the costs of raising and paying the same, and also any Settlement Estate Duty, form good deductions from the capital value of the property.

(d) Rates of duty (see page 131).

FORM No. 5

When Applicable

This form is applicable to cases coming within the scope of Form "No. 4," but where the duty is chargeable upon the value of the successor's life interest only, calculated in accordance with the tables annexed to the Succession Duty Act, 1853.

It also applies to cases of annuities charged upon real property by *deed*.

It does *not* apply to leaseholds where the Form "No. 6" would be appropriate.

As to exemption from the 1 per cent Succession Duty where Estate Duty has been paid, see page 42, and as to any other exemptions, see page 135.

(a) The predecessor (see page 123).

(b) Annual value.

If any part of the property is not producing income, an explanation thereof should be inserted. Interest at the current rate per cent upon any uninvested cash should be included.

(c) Deductions.

A deduction calculated at the current rate per cent upon the amount of any Estate or Settlement Estate Duty chargeable upon the property, and the costs of raising and paying the same, will be allowed.

(d) Rates of duty (see page 131).

(e) Payment by instalments.

The duty may be paid by four yearly instalments, as appears from the form, and it may be added that, should the successor die before all the four instalments are due, those falling due after his death are not payable.

Second and subsequent instalments should be accounted for on the Form "No. 7."

FORM No. 6-1

When Applicable

This form is for successions to real property (including copyholds and leaseholds) where the deceased—i.e. the person upon whose death the succession arose—died *after* the 1st August, 1894, *and* the successor is competent to dispose of the property. The form itself gives a definition of "competency to dispose."

Where the successor is not competent to dispose, i.e. where he takes for life or other limited interest, Form "No. 6" is applicable.

The duty upon this form is calculated upon the principal value of the property, *not*, as in the case of Form "No. 6," upon the value of the successor's life interest.

If the property is subject to a trust for sale or has been sold under a power of sale, the proper form is "No. 8" (*q.v.* page 215).

As to exemption from the 1 per cent Succession Duty where Estate Duty has been paid, see page 42, and as to any other exemptions, see page 135.

Succession duty on timber is not payable unless and until the same is sold. (See section 61 (5) of

the Finance Act, 1910, and section 9 of the Finance Act, 1912.)

(a) Predecessor (see page 123).

(b) Principal value.

See note at head of the form, and as to deduction of Estate Duty see next note.

(c) Deductions.

(1) As stated on the account, "deduction may be taken of the capitalised value of 'terminal' (terminable) charges."

Such capitalised value is arrived at by taking a slice of the property sufficient by the income thereof to meet the charge. Thus, assume that the property being accounted for produces a net income of £100 per annum, is valued at twenty-four years' purchase, and is subject to an annuity of £25 payable to A. B., aged fifty years. The principal value of the property is accordingly £2,400 and the slice sufficient to produce the annuity is $\frac{25}{100}$ or £600, which sum may be deducted as the capitalised value of the annuity. If the deduction be taken in this manner, then, upon the death of the annuitant, a further claim for Succession Duty arises upon the slice of the property passing by his death.

But, in order to obviate such further claim and settle up the whole matter at once, a deduction may be taken of the *value only* of the annuity calculated according to the tables annexed to the Succession Duty Act, 1853. In this case, the value of an annuity of £25 for a life aged fifty is, according to such tables, £310 14s. 10d.

Deductions for dower, free bench, etc., may be made in like manner.

(2) Estate Duty.

The amount of this duty, if payable out of the property, and any expenses properly incurred of raising and paying the same, form a good deduction. Estate Duty is a charge upon and payable out of real estate, and so is always deductible against real estate unless the deceased's will contains a direction absolving the property from payment thereof. Estate Duty is not, however, a charge upon leaseholds, and cannot be deducted against leaseholds unless the will charges the Estate Duty thereon.

(d) Instalments of duty.

The duty may be paid by instalments as appears on the last page of the form. If the whole duty be paid before the expiration of twelve months from the death of the deceased, discount is allowed at the rate of 3 per cent per annum calculated from the date of delivery of the complete account to the expiration of the said twelve months. If the successor dies before all the instalments are due, the unpaid duty remains a charge upon the property.

Second and subsequent instalments should be accounted for on the Form "No. 7-I."

(e) Rates of duty (see page 131).

FORM No. 6

When Applicable

This form is for successions to real property (including copyholds and leaseholds) except where

the deceased died after the 1st August, 1894, *and* the successor is competent to dispose of the property. In the excepted cases the Form "No. 6-1" is appropriate.

A successor is competent to dispose of property if he has such an estate or interest therein, or such general power, as would, if he were *sui juris*, enable him to dispose of the property. Thus a tenant in tail is competent to dispose of property.¹

As to exemption from the 1 per cent Succession Duty where Estate Duty has been paid, see page 42, and as to any other exemptions, see page 135.

As stated in the form, if the deceased died on or after the 1st July, 1888, and the title is under a will or by descent, and the property has not paid Estate Duty, a separate account (on a similar form) should be delivered in respect of any leaseholds for years. The reason for this is, that in such a case the real property, not having paid Probate Duty, pays the higher rates, viz.: $1\frac{1}{2}$, $4\frac{1}{2}$, $6\frac{1}{2}$, $7\frac{1}{2}$, or $11\frac{1}{2}$ per cent, of Succession Duty imposed by the Customs and Inland Revenue Act, 1888; while the leaseholds, having paid Probate Duty under the will or intestacy, are only liable to the lower rates. It may be added that the higher rates are not payable upon leaseholds which have paid Account Duty under the Customs and Inland Revenue Act, 1881.

Other Notes

- (a) Predecessor (see page 123).
- (b) Saleable value.

¹ Sect. 22 (2) (a) Finance Act, 1894.

The duty upon this form is assessed upon the value of the successor's life interest calculated according to the tables annexed to the Succession Duty Act, 1853. The net income of the property is taken as an annuity payable for the life of the successor. It sometimes happens, especially in the case of leasehold properties having but a short term unexpired, that such a calculation gives a value greater than the actual saleable value of the property. In such a case, the duty is generally "compounded" upon a notional sum calculated between the actual saleable value, and the taxable value.

(c) Deductions.

The form states what deductions are allowable and what not allowable, but it is necessary to add—

(1) Annuities.

When any annuities are deducted against the annual value of the property, a further claim for Succession Duty will arise upon the death of the annuitant in respect of the increase of benefit so passing to the successor. The Form "No. 9" is applicable. But if the successor wishes to clear up the whole matter at once he can elect not to claim any deduction for such annuities.

A widow's dower may be deducted as if the same were an annuity payable to her.

(2) Estate and Settlement Estate Duties.

If Estate Duty has been paid and remains a charge upon the property, a deduction, calculated at the current rate of interest upon the amount paid, will be allowed. This does not apply to leaseholds where the Estate Duty is not a charge upon

the property. A deduction, calculated as above, may also be made for any Settlement Estate Duty paid upon the property. This applies equally to leaseholds and real estate.

If the above duties have actually been raised upon mortgage bearing a higher rate of interest than the current rate, the deductions may generally be based upon such higher rate.

(3) It should be noted that costs of "management" (collection of rents, etc.), are not a good deduction in this form; except where the property is "purely agricultural" (see page 75).

(d) Instalments of duty.

The duty may be paid by instalments as appears on the last page of the form; and as to the death of a successor before all the instalments have become due, see page 211.

Second and subsequent instalments should be accounted for on the Form "No. 7."

(e) Rates of duty (see page 131).

FORMS No. 7 AND No. 7-1

When Applicable

These forms are for payment of second and subsequent instalments of Succession Duty upon property already accounted for in Forms "No. 6" and "No. 6-1" respectively.

Form "No. 7" is also applicable to cases of second and subsequent instalments of duty where Form "No. 5" has been used.

Exhaustive directions appear on the forms; but accounting parties should bear in mind that Form

"No. 7" follows Form "No. 6" and Form "No. 7-1" follows Form "No. 6-1."

FORM No. 8

When Applicable

This form is for payment of Legacy or Succession Duty on proceeds of sale, if sold, or on the principal value, if unsold, of real estate subject to a trust for conversion; or on proceeds of sale of real estate sold under a power for that purpose.

When real estate directed to be sold forms part of the deceased's general residuary estate, and a Form "No. 3" (see page 195) is being delivered, such real estate (or the proceeds thereof) should be included in the Form "No. 3" and this form is not required.

Real estate, for purposes of this form, includes leaseholds.

Legacy Duty is chargeable where the property is subject to a trust for conversion under the will of a person dying before 1st July, 1888; in all other cases Succession Duty is chargeable (see page 78).

As to exemption from the 1 per cent Succession Duty where Estate Duty has been paid, see page 42, and as to any other exemptions, see page 135.

(a) Predecessor.

If the property be derived directly by the successor under a will, the testator is the predecessor; but in other cases see page 123.

(b) Value of property.

If the property has been sold the gross proceeds

of sale should be inserted in the account ; if unsold, the fair saleable value should be inserted.

If the property has paid Estate Duty upon the deceased's Inland Revenue affidavit or an account, the value to be inserted should be the same as that in the previous account, or a full explanation of the difference supplied.

(c) Deductions.

(1) Annuities.

The value of any annuities chargeable upon the property calculated in accordance with the tables annexed to the Succession Duty Act, 1853, may be deducted.

(2) Estate Duty and Settlement Estate Duty.

Deductions for Estate Duty, if payable out of the property and any expenses properly incurred of raising and paying the same, may be made. This does not apply to leaseholds where Estate Duty is not a charge upon the property unless the testator's will contains a special direction to that effect.

Settlement Estate Duty payable out of the property is also deductible. This *does* apply to leaseholds.

(3) Costs of sale.

The actual costs of sale are a good deduction where the same are payable out of the proceeds of the property, and *not* out of the general residuary estate.

(d) Rents and interest to be added to net value.

The actual rents received in respect of the property calculated from the date of the deceased's

death to the date of the account (if unsold) or to the date of sale (if sold) should be included; and in the latter case, interest upon the proceeds of sale from the date of the sale to that of the account should also be inserted. If an account of such rents cannot conveniently be obtained, duty will generally be accepted upon the net value of the property exclusive of such rents, interest upon the duty at 3 per cent per annum, calculated from the day of the death, being charged in lieu thereof.

(e) Payment of duty.

The duty cannot be paid by instalments.

FORM No. 9

When Applicable

This form is for payment of duty on cessers of terminable charges upon real estate (including leaseholds) where the duty is chargeable by way of life interest.

In effect, the form is in the nature of a supplemental Form "No. 6,"¹ where some annuity or other terminable charge has been deducted against the annual value of the property included in such Form "No. 6."

Where the successor is competent to dispose of the property, as in Form "No. 6-I,"² and the annuity has been deducted in such form by setting aside a notional slice of the property, the proper form on termination of the annuity is Form "No. 6-I." But if the successor became entitled to the property by a death *before* the 2nd August, 1894

¹ Q.v., p. 211.

² Q.v., p. 209.

(in which case his succession would have been accounted for on Form "No. 6" whether he was competent to dispose of the property or not), the cesser of the annuity is treated as part of the original succession, and this form is applicable whether the successor be competent to dispose or not.

Reference to the notes on Form "No. 6" (page 211) is sufficient without further details.

FORM No. 10

When Applicable

This form is for payment of duty on money arising from sales of timber, when the death occurred before 30th April, 1909; in other cases Form "No. 4" (in duplicate) is applicable.

Where the duty has already been paid upon the principal value of the property upon Form "No. 6-1" (page 209) no further account of timber is necessary.¹

The form does not call for any further remark.

FORMS No. 11 AND No. 12

See "Legacy Duty Forms," page 190.

FORM No. 19

See "Commutation of Duty," page 219.

FORM H

See "Legacy Duty Forms," page 190.

¹ But see Sect. 61 (5) of the Finance Act, 1910, and sect. 9 of the 1912 Act.

CHAPTER VII

COMMUTATION OF DUTY AND CERTIFICATES OF DISCHARGE

1. COMMUTATION OF DUTY

It is often desired to get rid of future claims for duty arising upon the death of a life tenant or other limited owner, so that the property may be dealt with freed from any such claims; and power is accordingly given to the Commissioners of Inland Revenue to commute Estate Duty, Legacy Duty, and Succession Duty presumptively payable.

Applications for Commutation

Applications for commutation of duty should be made in writing to the Estate Duty Office, stating the reasons for the application (sale, mortgage, or other proposed dealing with the property), the full particulars of the property, the title, the names and dates of birth of the tenants for life and in remainder, and the gross amount of the sale money or the amount of the mortgage. The granting or refusal of the application is in the discretion of the Commissioners of Inland Revenue.

Applications for commutation of duties will not generally be granted where the life tenant or limited owner is of great age, and will not be entertained where he or she is not in ordinary good health, or unless the property is being dealt with in such a manner as to render it expedient to free

it from the charge of duty. Where the commutation of the duty has been made a condition of the sale or mortgage, the application to commute will generally be granted, so that the property may be freed in the hands of the purchaser or mortgagee. When the commutation has been agreed to, the necessary forms ("No. 20" in duplicate for Estate Duty, "No. 19" in duplicate for Succession Duty, and the ordinary forms for Legacy Duty) are supplied to the parties.

Of Estate Duty

(a) Commutation of Estate Duty.

Section 12 of the Finance Act, 1894, provides that "the Commissioners, in their discretion, upon application by a person entitled to an interest in expectancy, may commute the Estate Duty which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such duty, regard being had to the contingencies affecting the liability to and rate and amount of such duty, and interest being reckoned at 3 per cent; and on the receipt of such sum they shall give a certificate of discharge accordingly."

This section applies also to the commutation of Settlement Estate Duty.

Whether Estate or Succession Duty to be Commuted

The question whether the proper duty to commute is Estate or Succession Duty in respect of real

estate being sold during the lifetime of a tenant for life or annuitant, depends upon the manner in which the proceeds of sale are being divided. To take a definite example: A, dying before the Finance Act, 1894, devises real estate to B for life, with remainder to C in fee. B and C together join in selling the property to D, who naturally requires it to be conveyed to him free from any charge for duty which would arise on B's death. The purchase moneys are to be divided between B and C, B receiving an amount equal to the value of his life interest in the property, and C taking the remainder. In this case, the settlement created by A's will is being put an end to, and the proper duty to commute is Succession Duty. But if the proceeds of sale are to be invested, and the income thereof paid to B for life upon the trusts of A's will, the transaction is, in effect, merely a change of investment, and Estate Duty is commutable. On the other hand, if B is releasing his life interest absolutely to C, retaining no interest whatever, expressly or by implication, in the property, the case comes within section 11 of the Finance Act, 1900 (see page 24), and Succession Duty is the proper duty to be commuted. If, however, B die within the limited period of the surrender, Estate Duty is payable, an allowance being made for the payment of commuted Succession Duty (see page 19).

Succession Duty may, of course, be payable and should be commuted in addition to the Estate Duty, where the property will not pass, on the life tenant's death, to a lineal ancestor or lineal

descendant of the predecessor, or where section 58 of the Finance Act, 1910, applies (see page 130).

Commutation of Legacy and Succession Duty

(b) Commutation of Legacy and Succession Duty.

The commutation of these duties proceeds upon section 41 of the Succession Duty Act, 1853, and section 11 of 43 Vict., c. 14, which are as follows—

Section 41 of the Succession Duty Act—

“It shall be lawful for the Commissioners, in their discretion, upon application made by any person who shall be entitled to a succession in expectancy, to commute the duty presumptively payable in respect of such succession for a certain sum to be presently paid, and for assessing the amount which shall be so payable they shall cause a present value to be set upon such presumptive duty, regard being had to the contingencies affecting the liability to such duty, and the interest of money involved in such calculation being reckoned at the rate for the time being allowed by the Commissioners in respect of duties paid in advance; and upon the receipt of such certain sum they shall give discharges to the successor accordingly.”

Section 11 of 43 Vict., c. 14—

“Where any Legacy Duty or Succession Duty shall be presumptively payable in respect of any interest in expectancy upon the determination of a life or other temporary interest in possession in a legacy or residue, or in personal property comprised in a succession, and the duty (if any) payable upon the life or other temporary interest shall

have been fully paid and satisfied, it shall be lawful for the Commissioners of Inland Revenue, in their discretion, upon the application of the executor or trustee, or other person who would be accountable for the duty in respect of such interest in expectancy, if it were then in possession, to commute the duty presumptively payable for a certain sum to be presently paid.

“For assessing the amount which shall be so payable, the Commissioners shall cause a present value to be set upon the presumptive duty, regard being had to any contingencies affecting the liability to such duty, and the interest of money involved in the calculation being reckoned at the rate for the time being allowed by the Commissioners in respect of duties paid in advance under the Succession Duty Act, 1853.

“Upon the receipt of the certain sum, the Commissioners shall give a discharge for the duty accordingly.”

Section 2 of the Deceased Wife's Sister's Marriage Act, 1907,¹ declares that no commutation, etc., of any duties leviable on or with reference to death before the passing (28th August, 1907) of the Act duly made, shall be prejudicially affected by anything herein contained.

2. CERTIFICATES OF DISCHARGE

Certificates of due payment of Estate Duty may be obtained under section 11 of the Finance Act, 1894, which runs thus—

¹ 7 Edw. VII, c. 47.

“(1) The Commissioners on being satisfied that the full Estate Duty has been or will be paid in respect of an estate or any part thereof shall, if required by the person accounting for the duty, give a certificate to that effect, which shall discharge from any further claim for Estate Duty the property shown by the certificate to form the estate or part thereof as the case may be.

“(2) When a person accountable for the Estate Duty in respect of any property passing on a death applies after the lapse of two years from such death to the Commissioners, and delivers to them and verifies a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto, the Commissioners may determine the rate of the Estate Duty in respect of the property for which the applicant is accountable, and, on payment of the duty at that rate, that property and the applicant so far as regards that property shall be discharged from any further claim for Estate Duty, and the Commissioners shall give a certificate of such discharge.

“(3) A certificate of the Commissioners under this section shall not discharge any person or property from Estate Duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty in respect of such property shall be at such rate as would be payable if the value thereof

were added to the value of the property in respect of which duty has been already accounted for:

“(4) Provided nevertheless that a certificate purporting to be a discharge of the whole Estate Duty payable in respect of any property included in the certificate shall exonerate a *bonâ fide* purchaser for valuable consideration without notice from the duty notwithstanding any such fraud or failure.”

Section 14 of the Finance Act, 1907, gives power to the Commissioners to grant certificates of discharge notwithstanding that the application is made before the lapse of the two years mentioned in section 11 (2) of the 1894 Act (*supra*).

Official Instructions as to Certificates

The official instructions regarding applications for certificates under section 11 (1) of the Finance Act, 1894, are as follows, the Application Form being No. 25—

(1) The application should be prepared in duplicate, and should be transmitted to the Controller, Estate Duty Office, Inland Revenue, Somerset House, W.C.2. The certificate (if it can be issued) will be endorsed on one copy, which will then be returned to the applicant. The other copy will be filed for reference.

When more than one certificate is required, the property to be included in each certificate should be set out on a separate form. Separate duplicates should not, however, be prepared, but one form, comprising all the property in respect of which

separate certificates are required, should be forwarded for filing in the Estate Duty Office.

(2) A certificate under section 11 (1) does not apply to a deceased person's free personal estate, including leasehold property, upon which the Estate Duty does not form a specific charge.

In the case of a death occurring after the 31st December, 1925, a certificate under section 11 (1) of the Finance Act, 1894, is, in the terms of section 17 of the Law of Property Act, 1925, not necessary for the protection of a purchaser.

Section 16 (7) of the Law of Property Act, 1925, enacts thus—

“The said Commissioners (of Inland Revenue), on being satisfied that a personal representative or other person accountable has paid or commuted or will pay or commute all death duties for which he is accountable in respect of the land or any part thereof, shall, if required by him, give a certificate to that effect, which shall discharge from any further claim for such duty the land to which the certificate extends, and the production of such certificate to the Land Registrar or other proper officer shall be a sufficient authority to enable him to cancel any land charge registered in respect of the duty so far as it affects the land to which the certificate extends.”

The official instructions regarding applications for these Certificates are as follow, the Application Form being No. 26—

The application should be prepared in duplicate and should be transmitted to the Controller, Estate

Duty Office, Inland Revenue, Somerset House, London, W.C.2. The certificate (if it can be issued) will be endorsed on one copy, which will then be returned to the applicant. The other copy will be filed for reference.

Where more than one certificate is required, the property to be included in each certificate should be set out on a separate form. Separate duplicates should not, however, be prepared, but one form, comprising all the property in respect of which separate certificates are required, should be forwarded for filing in the Estate Duty Office.

Certificates of payment of Succession Duty may be obtained under section 51 of the Succession Duty Act, 1853, and certificates discharging executors, administrators, or trustees from their liability to any claim for duty on distribution of funds are issued under section 12 of the Customs and Inland Revenue Act, 1880.

APPENDIX

THE FINANCE ACTS, 1894 TO 1933, THE REVENUE ACT, 1903, THE DECEASED WIFE'S SISTER'S MARRIAGE ACT, 1907, AND THE DEATH DUTIES (KILLED IN WAR) ACT, 1914, SO FAR AS RELATING TO THE DEATH DUTIES. FORM OF APPLICATION FOR DUTY-PAID STAMP.

The Author's notes are italicised and appear in brackets, thus,
[]

Finance Act, 1894

[57 & 58 Vict. C. 30]

An Act to grant certain Duties of Customs and Inland Revenue, to alter other Duties, and to amend the Law relating to Customs and Inland Revenue, and to make other provision for the financial arrangements of the year.

[31st July, 1894.]

PART I

ESTATE DUTY

Grant of Estate Duty

Grant of Estate Duty

1. In the case of every person dying after the commencement of this part of this Act, there shall, save as hereinafter expressly provided, be levied and paid, upon the principal value ascertained as hereinafter provided of all property, real or personal, settled or not settled, which passes on the death of such person, a duty, called "estate duty," at the graduated rates hereinafter mentioned, and the existing duties mentioned in the First Schedule to this Act shall not be levied in respect of property chargeable with such estate duty.

[*And see Section 58 of the Finance Act, 1910.*]

What Property is Deemed to Pass

2.—(1) Property passing on the death of the deceased shall be deemed to include the property following, that is to say—

- (a) Property of which the deceased was at the time of his death competent to dispose;
- (b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest; but exclusive of property the interest in which the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole;
- (c) Property which would be required on the death of the deceased to be included in an account under Section 38 of the Customs and Inland Revenue Act, 1889, as amended by Section 11 of the Customs and Inland Revenue Act, 1889, if those sections were herein enacted and extended to real property as well as personal property, and the words "voluntary" and "voluntarily" and a reference to a "volunteer" were omitted therefrom; and

[*And see Section 59 of the Finance Act, 1910.*]

- (d) Any annuity or other interest purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

(2) Property passing on the death of the deceased when situate out of the United Kingdom shall be included only, if, under the law in force before the passing of this Act, legacy or succession duty is payable in respect thereof, or would be so payable but for the relationship of the person to whom it passes.

[*Here see Section 37 (1) Finance Act, 1923.*]

(3) Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person, under a disposition not made by the deceased, or under a disposition made by the deceased more than twelve months before his death where possession and enjoyment of the property was *bonâ fide* assumed by the

beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

[*And see Section 59 of the Finance Act, 1910.*]

Exception for Transactions for Money Consideration

3.—(1) Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

Aggregation of Property to Form One Estate for Purpose of Duty

4. For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable shall be aggregated so as to form one estate, and the duty shall be levied at the proper graduated rate on the principal value thereof:

Provided that any property so passing, in which the deceased never had an interest [or which under a disposition not made by the deceased passes immediately on the death of the deceased to some person other than the wife or husband or a lineal ancestor or lineal descendant of the deceased], shall not be aggregated with any other property but shall be an estate by itself, and the estate duty shall be levied at the proper graduated rate on the principal value thereof; [but if any benefit under a disposition not made by the deceased is reserved or given to the wife or husband or a lineal ancestor

beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

[*And see Section 59 of the Finance Act, 1910.*]

Exception for Transactions for Money Consideration

3.—(1) Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bonâ fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

Aggregation of Property to Form One Estate for Purpose of Duty

4. For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable shall be aggregated so as to form one estate, and the duty shall be levied at the proper graduated rate on the principal value thereof:

Provided that any property so passing, in which the deceased never had an interest [or which under a disposition not made by the deceased passes immediately on the death of the deceased to some person other than the wife or husband or a lineal ancestor or lineal descendant of the deceased], shall not be aggregated with any other property but shall be an estate by itself, and the estate duty shall be levied at the proper graduated rate on the principal value thereof; [but if any benefit under a disposition not made by the deceased is reserved or given to the wife or husband or a lineal ancestor

or lineal descendant of the deceased, such benefit shall be aggregated with property of the deceased for the purpose of determining the rate of estate duty].

[*The words bracketed are repealed by Section 18 of the Finance Act, 1900, as regards deaths on and after the 9th April, 1900, and see Section 11 of that Act, Section 16 Finance Act, 1907, and Section 51 Finance Act, 1927.*]

Settled Property

5.—(1) Where property in respect of which estate duty is leviable, is settled by the will of the deceased, or having been settled by some other disposition passes under that disposition on the death of the deceased to some person not competent to dispose of the property—

- (a) A further estate duty (called settlement estate duty) on the principal value of the settled property shall be levied at the rate hereinafter specified, except where the only life interest in the property after the death of the deceased is that of a wife or husband of the deceased; but
- (b) During the continuance of the settlement the settlement estate duty shall not be payable more than once.

(2) If estate duty has already been paid in respect of any settled property since the date of the settlement, the estate duty shall not, nor shall any of the duties mentioned in the fifth paragraph of the First Schedule to this Act, be payable in respect thereof, until the death of a person who was at the time of his death or had been at any time during the continuance of the settlement competent to dispose of such property.

[*Here see addition under Section 13 of the Finance Act, 1898, Section 55 of the Finance Act, 1910, and Section 14 of the Finance Act, 1914.*]

(3) In the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.

(4) Any person paying the settlement estate duty payable under this section upon property comprised in a settlement, may deduct the amount of the *ad valorem* stamp duty (if any) charged on the settlement in respect of that property.

(5) Where any lands or chattels are so settled, whether by Act of Parliament or royal grant, that no one of the persons successively in possession thereof is capable of alienating the same, whether his interest is in law a tenancy for life or a tenancy in tail, the provisions of this Act with respect of settled property shall not apply, and the property passing on the death of any person in possession of the lands and chattels shall be the interest of his successor in the lands and chattels, and such interest shall be valued, for the purpose of estate duty, in like manner as for the purpose of succession duty.

[*Here see Section 44, Finance Act, 1922.*]

Collection and Recovery of Duty and Value of Property

Collection and Recovery of Estate Duty

6.—(1) Estate duty shall be a stamp duty, collected and recovered as hereinafter mentioned.

(2) The executor of the deceased shall pay the estate duty in respect of all personal property (wheresoever situate) of which the deceased was competent to dispose at his death, on delivering the Inland Revenue affidavit, and may pay in like manner the estate duty in respect of any other property passing on such death, which by virtue of any testamentary disposition of the deceased is under the control of the executor, or, in the case of property not under his control, if the persons accountable for the duty in respect thereof request him to make such payment.

(3) Where the executor does not know the amount or value of any property which has passed on the death, he may state in the Inland Revenue affidavit that such property exists but he does not know the amount or value thereof, and that he undertakes, as soon as the amount and value are ascertained, to bring in an account thereof, and to pay both the duty for which he is or may be liable, and any further duty payable by reason thereof for which he is or may be liable in respect of the other property mentioned in the affidavit.

(4) Estate duty, so far as not paid by the executor, shall be collected upon an account setting forth the particulars of the property, and delivered to the Commissioners within six months after the death by the person accountable for the duty, or within such further time as the Commissioners may allow.

(5) Every estate shall include all income accrued upon the

property included therein down to and outstanding at the date of the death of the deceased.

(6) Interest [at the rate of 3 per cent per annum] on the estate duty shall be paid from the date of the death up to the date of the delivery of the Inland Revenue affidavit or account, or the expiration of six months after the death, whichever first happens [and shall form part of the estate duty].

[*The words bracketed are repealed by Section 40 of the Finance Act, 1896, and see Section 18 of that Act.*]

(7) The duty which is to be collected upon an Inland Revenue affidavit or account shall be due on the delivery thereof, or on the expiration of six months from the death, whichever first happens.

(8) Provided that the duty due upon an account of real property may, at the option of the person delivering the account, be paid by eight equal yearly instalments, or sixteen half-yearly instalments, with interest at the rate of 3 per cent per annum from the date at which the first instalment is due [less income tax], and the first instalment shall be due at the expiration of twelve months from the death, and the interest on the unpaid portion of the duty shall be added to each instalment and paid accordingly; but the duty for the time being unpaid, with such interest to the date of payment, may be paid at any time, and in case the property is sold, shall be paid on completion of the sale, and if not so paid shall be duty in arrear.

[*The words bracketed are repealed by Section 40 of the Finance Act, 1896, and see Section 18 of that Act and Section 61 (3-5) of the Finance Act, 1910.*]

Value of Property

7.—(1) In determining the value of an estate for the purpose of estate duty allowance shall be made for reasonable funeral expenses and for debts and incumbrances; but an allowance shall not be made—

- (a) For debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless such debts or incumbrances were incurred or created *bonâ fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest, nor

- (b) For any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained, nor
- (c) More than once for the same debt or incumbrance charged upon different portions of the estate;

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other subjects of property liable thereto.

[*Here see Sections 57 and 62 of the Finance Act, 1910.*]

(2) An allowance shall not be made in the first instance for debts due from the deceased to persons resident out of the United Kingdom (unless contracted to be paid in the United Kingdom, or charged on property situate within the United Kingdom), except out of the value of any personal property of the deceased situate out of the United Kingdom in respect of which estate duty is paid; and there shall be no repayment of estate duty in respect of any such debts, except to the extent to which it is shown to the satisfaction of the Commissioners, that the personal property of the deceased situate in the foreign country or British possession in which the person to whom such debts are due resides, is insufficient for their payment.

(3) Where the Commissioners are satisfied that any additional expense in administering or in realising property has been incurred by reason of the property being situate out of the United Kingdom, they may make an allowance from the value of the property on account of such expense not exceeding in any case 5 per cent on the value of the property.

(4) Where any property passing on the death of the deceased is situate in a foreign country, and the Commissioners are satisfied that by reason of such death any duty is payable in that foreign country in respect of that property, they shall make an allowance of the amount of that duty from the value of the property.

(5) The principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market at the time of the death of the deceased;

Provided that, in the case of any agricultural property, where no part of the principal value is due to the expectation of an increased income from such property, the principal value

shall not exceed twenty-five times the annual value as assessed under Schedule A of the Income Tax Acts, after making such deductions as have not been allowed in that assessment and are allowed under the Succession Duty Act, 1853, and making a deduction for expenses of management not exceeding 5 per cent of the annual value so assessed.

[*Here see Sections 60 and 61 (1) of the Finance Act, 1910, Section 18 of the Finance Act, 1911, and Section 37 of the Finance Act, 1930.*]

(6) Where an estate includes an interest in expectancy, estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the Estate duty in respect of the rest of the estate, then—

(a) for the purpose of determining the rate of estate duty in respect of the rest of the estate the value of the interest shall be its value at the date of the death of the deceased; and

(b) the rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

(7) The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

(a) if the interest extended to the whole income of the property be the principal value of that property; and

(b) if the interest extended to less than the whole income of the property be the principal value of an addition to the property equal to the income to which the interest extended.

(8) Subject to the provisions of this Act, the value of any property for the purpose of estate duty shall be ascertained by the Commissioners in such manner and by such means as they think fit, and, if they authorise a person to inspect any property and report to them the value thereof for the purpose of this Act, the person having the custody or possession of that property shall permit the person so authorised to inspect

it at such reasonable times as the Commissioners consider necessary.

(9) Where the Commissioners require a valuation to be made by a person named by them, the reasonable costs of such valuation shall be defrayed by the Commissioners.

(10) Property passing on any death shall not be aggregated more than once, nor shall estate duty in respect thereof be more than once levied on the same death.

Supplemental Provisions as to Collection, Recovery, and Repayment of and Exemption from Estate Duty

8.—(1) The existing law and practice relating to any of the duties now leviable on or with reference to death shall, subject to the provisions of this Act and so far as the same are applicable, apply for the purposes of the collection, recovery, and repayment of estate duty, and for the exemption of the property of common seamen, marines, or soldiers, who are slain or die in the service of His Majesty, and for the purpose of payment of sums under one hundred pounds without requiring representation, as if such law and practice were in terms made applicable to this Part of this Act.

(2) Sections 12 to 14 of the Customs and Inland Revenue Act, 1889, and Section 47 of the Local Registration of Title (Ireland) Act, 1891, shall apply as if estate duty were therein mentioned as well as succession duty, and as if an account were not settled within the meaning of any of the above sections until the time for the payment of the duty on such account has arrived.

(3) The executor of the deceased shall, to the best of his knowledge and belief, specify in appropriate accounts annexed to the Inland Revenue affidavit all the property in respect of which estate duty is payable upon the death of the deceased, and shall be accountable for estate duty in respect of all personal property wheresoever situate of which the deceased was competent to dispose at his death, but shall not be liable for any duty in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

(4) Where property passes on the death of the deceased, and his executor is not accountable for the estate duty in respect of such property, every person to whom any property so passes

for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title shall be accountable for the estate duty on the property, and shall, within the time required by this Act or such later time as the Commissioners allow, deliver to the Commissioners and verify an account, to the best of his knowledge and belief, of the property: Provided that nothing in this section contained shall render a person accountable for duty who acts merely as agent or bailiff for another person in the management of property.

(5) Every person accountable for estate duty, and every person whom the Commissioners believe to have taken possession of or administered any part of the estate in respect of which duty is leviable on the death of the deceased, or of the income of any part of such estate, shall, to the best of his knowledge and belief, if required by the Commissioners, deliver to them and verify a statement of such particulars together with such evidence as they require relating to any property which they have reason to believe to form part of an estate in respect of which estate duty is leviable on the death of the deceased.

(6) A person who wilfully fails to comply with any of the foregoing provisions of this section shall be liable to pay one hundred pounds, or a sum equal to double the amount of the estate duty, if any, remaining unpaid for which he is accountable, according as the Commissioners elect: Provided that the Commissioners, or in any proceeding for the recovery of such penalty the Court, shall have power to reduce any such penalty.

(7) Estate duty shall, in the first instance, be calculated at the appropriate rate according to the value of the estate as set forth in the Inland Revenue affidavit or account delivered, but if afterwards it appears that for any reason too little duty has been paid, the additional duty shall, unless a certificate of discharge has been delivered under this Act, be payable, and be treated as duty in arrear.

(8) The Commissioners on application from a person

accountable for the duty on any property forming part of an estate shall, where they consider that it can conveniently be done, certify the amount of the valuation accepted by them for any class or description of property forming part of such estate.

(9) Where the Commissioners are satisfied that the estate duty leviable in respect of any property cannot without excessive sacrifice be raised at once, they may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding 4 per cent or any higher interest yielded by the property, and on such terms, as the Commissioners think fit.

[(10) Interest on arrears of estate duty shall be paid as if they were arrears of legacy duty.]

[This sub-section is repealed by Section 40 of the Finance Act, 1896, and see Section 18 of that Act.]

(11) If after the expiration of twenty years from a death upon which estate duty became leviable any such duty remains unpaid, the Commissioners may, if they think fit, on the application of any person accountable or liable for such duty or interested in the property, remit the payment of such duty or any part thereof or any interest thereon.

[And see Section 13 of the Finance Act, 1907.]

(12) Where it is proved to the satisfaction of the Commissioners that too much estate duty has been paid, the excess shall be repaid by them, and in cases where the over-payment was due to over valuation by the Commissioners, with interest at 3 per cent per annum.

(13) Where any proceeding for the recovery of estate duty in respect of any property is instituted, the High Court shall have jurisdiction to appoint a receiver of the property and the rents and profits thereof, and to order a sale of the property.

(14) All affidavits, accounts, certificates, statements and forms used for the purpose of this Part of this Act shall be in such form, and contain such particulars, as may be prescribed, and if so required by the Commissioners shall be in duplicate, and accounts and statements shall be delivered and verified on oath and by production of books and documents in the manner prescribed, and any person who wilfully fails to comply with the provisions of this enactment shall be liable to the penalty above in this section mentioned.

(15) No charge shall be made for any certificate given by the Commissioners under this Act.

(16) The estate duty may be collected by means of stamps or such other means as the Commissioners prescribe.

(17) The form of certificate required to be given by the proper officer of the Court under Section 30 of the Customs and Inland Revenue Act, 1881, may be varied by a rule of Court in such manner as may appear necessary for carrying into effect this Act.

(18) Nothing in this section shall render liable to or accountable for duty a *bonâ fide* purchaser for valuable consideration without notice.

Charge of Estate Duty on Property, and Facilities for Raising it

9.—(1) A rateable part of the estate duty on an estate, in proportion to the value of any property which does not pass to the executor as such, shall be a first charge on the property in respect of which duty is leviable; provided that the property shall not be so chargeable as against a *bonâ fide* purchaser thereof for valuable consideration without notice.

(2) On an application submitting in the prescribed form the description of the lands or other subjects of property (whether hereditaments, stocks, funds, shares, or securities), and of the debts and incumbrances allowed by the Commissioners in assessing the value of the property for the purposes of estate duty, the Commissioners shall grant a certificate of the estate duty paid in respect of the property, and specify the debts and incumbrances so allowed, as well as the lands or other subjects of property.

(3) Subject to any repayment of estate duty arising from want of title to the land or other subjects of property, or from the existence of any debt or incumbrance thereon for which under this Act an allowance ought to have been but has not been made, or from any other cause, the certificate of the Commissioners shall be conclusive evidence that the amount of duty named therein is a first charge on the lands or other subjects of property after the debts and incumbrances allowed as aforesaid: Provided that any such repayment of duty by the Commissioners shall be made to the person producing to them the said certificate.

(4) If the rateable part of the estate duty in respect of any property is paid by the executor, it shall where occasion requires be repaid to him by the trustees or owners of the property, but if the duty is in respect of real property, it may, unless otherwise agreed upon, be repaid by the same instalments and with the same interest as are in this Act mentioned.

(5) A person authorised or required to pay estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise the amount of such duty and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof.

(6) A person having a limited interest in any property, who pays the estate duty in respect of that property, shall be entitled to the like charge, as if the estate duty in respect of that property had been raised by means of a mortgage to him.

(7) Any money arising from the sale of property comprised in a settlement, or held upon trust to lay out upon the trusts of a settlement, and capital money arising under the Settled Land Act, 1882, may be expended in paying any estate duty in respect of property comprised in the settlement and held upon the same trusts.

Appeal from Commissioners

10.—(1) Any person aggrieved by the decision of the Commissioners with respect to the repayment of any excess of duty paid, or by the amount of duty claimed by the Commissioners, whether on the ground of the value of any property or the rate charged or otherwise, may, on payment of, or giving security as hereinafter mentioned for, the duty claimed by the Commissioners or such portion of it as is then payable by him, appeal to the High Court within the time and in the manner and on the conditions directed by rules of Court, and the amount of duty shall be determined by the High Court, and if the duty as determined is less than that paid to the Commissioners the excess shall be repaid.

(2) No appeal shall be allowed from any order, direction, determination or decision of the High Court in any appeal

under this section except with the leave of the High Court or Court of Appeal.

(3) The costs of the appeal shall be in the discretion of the Court, and the Court, where it appears to the Court just, may order the Commissioners to pay on any excess duty repaid by them interest at the rate of 3 per cent per annum for such period as appears to the Court just.

(4) Provided that the High Court, if satisfied that it would impose hardship to require the appellant, as a condition of an appeal, to pay the whole or, as the case may be, any part of the duty claimed by the Commissioners or of such portion of it as is then payable by him, may allow an appeal to be brought on payment of no duty, or of such part only of the duty as to the Court seems reasonable, and on security to the satisfaction of the Court being given for the duty, or so much of the duty as is not so paid, but in such cases the Court may order interest at the rate of 3 per cent per annum to be paid on the unpaid duty so far as it becomes payable under the decision of the Court.

(5) Where the value as alleged by the Commissioners of the property in respect of which the dispute arises does not exceed ten thousand pounds, the appeal under this section may be to the county court for the county or place in which the appellant resides or the property is situate, and this section shall for the purpose of the appeal apply as if such county court were the High Court.

[*And here see addition under Section 22 of the Finance Act, 1896, and Amendment by Section 60 (3) of the Finance Act, 1910.*]

(6) The county council of every county or county borough in Great Britain, shall within twelve months after the commencement of this Act, and may thereafter from time to time, appoint a sufficient number of qualified persons to act as valuers for the purposes of this Act in their respective counties, and shall fix a scale of charges for the remuneration of such persons, and the Court may refer any question of disputed value under this section to the arbitration of any person so appointed for the county in which the appellant resides or the property is situate; and the costs of any such arbitration shall be part of the costs of the appeal.

*Discharge from and Apportionment of Duty***Release of Persons Paying Estate Duty**

11.—(1) The Commissioners on being satisfied that the full estate duty has been or will be paid in respect of an estate or any part thereof shall, if required by the person accounting for the duty, give a certificate to that effect, which shall discharge from any further claim for estate duty the property shown by the certificate to form the estate or part thereof as the case may be.

(2) Where a person accountable for the estate duty in respect of any property passing on a death applies after the lapse of two years from such death to the Commissioners, and delivers to them and verifies a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto, the Commissioners may determine the rate of the estate duty in respect of the property for which the applicant is accountable, and on payment of the duty at that rate, the property and the applicant so far as regards that property shall be discharged from any further claim for estate duty, and the Commissioners shall give a certificate of such discharge.

[*And see Section 14 of the Finance Act, 1907.*]

(3) A certificate of the Commissioners under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for;

(4) Provided nevertheless that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate a *bonâ fide* purchaser for valuable consideration without notice from the duty notwithstanding any such fraud or failure.

Commutation of Duty on Interest in Expectancy

12. The Commissioners in their discretion, upon application by a person entitled to an interest in expectancy, may

commute the estate duty which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such duty, regard being had to the contingencies affecting the liability to and rate and amount of such duty, and interest being reckoned at 3 per cent; and on the receipt of such sum they shall give a certificate of discharge accordingly.

Powers to Accept Composition for Death Duties

13.—(1) Where, by reason of the number of deaths on which property has passed or of the complicated nature of the interests of different persons in property which has passed on death, or from any other cause, it is difficult to ascertain exactly the amount of death duties or any of them payable in respect of any property or any interest therein, or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Commissioners on the application of any person accountable for any duty thereon, and upon his giving to them all the information in his power respecting the amount of the property, and the several interests therein, and other circumstances of the case, may by way of composition for all or any of the death duties payable in respect of the property, or interest, and the various interests therein, or any of them, assess such sum on the value of the property, or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed, in full discharge of all claims for death duties in respect of such property or interest, and shall give a certificate of discharge accordingly;

(2) Provided that the certificate shall not discharge any person from any duty in case of fraud or failure to disclose material facts.

(3) In this section the expression "death duties" means the estate duty under this Act, the duties mentioned in the First Schedule to this Act and the legacy and succession duties, and the duty payable on any representation or inventory under any Act in force before the Customs and Inland Revenue Act, 1881.

Apportionment of Duty

14.—(1) In the case of property which does not pass to the executor as such, an amount equal to the proper rateable part

of the estate duty may be recovered by the person, who being authorised or required to pay the estate duty in respect of any property has paid such duty, from the person entitled to any sum charged on such property (whether as capital or as an annuity or otherwise) under a disposition not containing any express provision to the contrary.

(2) Any dispute as to the proportion of estate duty to be borne by any property or person, may be determined upon application by any person interested in manner directed by Rules of Court, either by the High Court, or, where the amount in dispute is less than fifty pounds, by a county court for the county or place in which the person recovering the same resides, or the property in respect of which the duty is paid is situate.

(3) Any person from whom a rateable part of estate duty can be recovered under this section shall be bound by the accounts and valuations as settled between the person entitled to recover the same and the Commissioners.

Exemptions from Estate Duty

15.—(1) Estate duty shall not be payable in respect of a single annuity not exceeding twenty-five pounds purchased or provided by the deceased, either by himself alone or in concert or arrangement with any other person, for the life of himself and of some other person and the survivor of them, or to arise on his own death in favour of some other person; and if in any case there is more than one such annuity, the annuity first granted shall be alone entitled to the exemption under this section.

(2) It shall be lawful for the Treasury to remit the estate duty, or any other duty leviable on or with reference to death, in respect of any such pictures, prints, books, manuscripts, works of art or scientific collections as appear to the Treasury to be of national, scientific, or historic interest, and to be given or bequeathed for national purposes, or to any university, or to any county council or municipal corporation, and no property the duty in respect of which is so remitted shall be aggregated with any other property for the purpose of fixing the rate of estate duty.

(3) Estate duty shall not be payable in respect of any pension or annuity payment by the Government of British India

to the widow or child of any deceased officer of such Government, notwithstanding that the deceased contributed during his lifetime to any fund out of which such pension or annuity is paid.

(4) Estate duty shall not be payable in respect of any advowson or church patronage which would have been free from succession duty under Section 24 of the Succession Duty Act, 1853.

Small Estates

Provision for Estates not exceeding a Thousand Pounds

16.—(1) The provisions of Sections 33, 35, and 36 of the Customs and Inland Revenue Act, 1881 (relating to the obtaining of representation to the deceased where the gross value of his personal estate does not exceed three hundred pounds), shall apply with the necessary modifications to the case where the gross value of the property real and personal in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed five hundred pounds, and where the gross value does not exceed three hundred pounds the fixed duty shall be thirty shillings, and where the gross value exceeds three hundred pounds and does not exceed five hundred pounds the fixed duty shall be fifty shillings.

[*And see Section 14 of the Revenue Act, 1903, and Section 61 (2) of the Finance Act, 1910.*]

(2) All such property may be comprised in the notice under the said Section 33.

(3) Where the net value of the property, real and personal, in respect of which estate duty is payable on the death of the deceased, exclusive of property settled otherwise than by the will of the deceased, does not exceed one thousand pounds, such property, for the purpose of estate duty, shall not be aggregated with any other property, but shall form an estate by itself; and where the fixed duty or estate duty has been paid upon the principal value of that estate, the settlement estate duty and the legacy and succession duties shall not be payable under the will or intestacy of the deceased in respect of that estate.

(4) Where representation granted under this section is granted in England extends to property in Ireland, and if

granted in Ireland extends to property in England, the principal registrar of the Probate Division of the High Court in England or Ireland, as the case may be, shall affix the seal of the Court thereto on the same being sent to him for that purpose, with the fee of two shillings and sixpence.

(5) Where the fixed duty of thirty or fifty shillings is paid within twelve months after the death of the deceased, interest on such duty shall not be payable.

Rates of Estate Duty

Scale of Rates of Estate Duty

17. The rates of estate duty shall be according to the following scale—

Where the Principal Value of the Estate		Estate Duty shall be payable at the Rate per Cent of
Exceeds		
£100 and does not exceed	£500	One pound
500 " "	1,000	Two pounds
1,000 " "	10,000	Three pounds
10,000 " "	25,000	Four pounds
25,000 " "	50,000	Four pounds ten shillings
50,000 " "	75,000	Five pounds
75,000 " "	100,000	Five pounds ten shillings
100,000 " "	150,000	Six pounds
150,000 " "	250,000	Six pounds ten shillings
250,000 " "	500,000	Seven pounds
500,000 " "	1,000,000	Seven pounds ten shillings
1,000,000 " "		Eight pounds

[See the rates of duty substituted by Section 12 of the Finance Act, 1907; Section 54 of the Finance Act, 1910; Section 12 of the Finance Act, 1914; Section 29 of the Finance Act, 1919; Section 22 of the Finance Act, 1925; and Section 33 of the Finance Act, 1930.]

The rate of the settlement estate duty where the property is settled shall be 1 per cent.

[Increased to 2 per cent on deaths on or after 30th April, 1909, Section 54, Finance Act, 1910; but by Section 14, Finance Act, 1914, abolished in cases of deaths after 11th May, 1914.]

[Provided that for any fractional part of ten pounds over ten pounds or any multiple thereof, the estate duty and the settlement estate duty shall be payable at the rate per cent for the full sum of ten pounds.]

[*The words bracketed are repealed by Section 40 of the Finance Act, 1896, and see Section 17 of that Act and Section 13 of the Finance Act, 1900.*]

Succession Duty

Value of Real Successions for Succession Duty

18.—(1) The value for the purpose of succession duty of a succession to real property arising on the death of a deceased person shall, where the successor is competent to dispose of the property, be the principal value of the property, after deducting the estate duty payable in respect thereof on the said death and the expenses, if any, properly incurred of raising and paying the same; and the duty shall be a charge on the property, and shall be payable by the same instalments as are authorised by this Act for estate duty on real property, with interest at the rate of 3 per cent per annum; and the first instalment shall be payable and the interest shall begin to run at the expiration of twelve months after the date on which the successor became entitled in possession to his succession or to the receipt of the income and profit thereof; and after the expiration of the said twelve months the provisions with respect to discount shall not apply.

(2) The principal value of real property for the purpose of succession duty shall be ascertained in the same manner as it would be ascertained under the provisions of the Act for the purpose of estate duty; and in the case of any agricultural property where no part of the principal value is due to the expectation of an increased income from such property, the annual value for the purpose of succession duty shall be arrived at in the same manner as under the provisions of this Act for the purpose of estate duty.

[*Here see Section 24 Finance Act, 1925.*]

Adaptation of Law as to Probate Duty Grant

19.

Local Taxation Grant

British Possessions

Exception as to Property in British Possessions

20.—(1) Where the Commissioners are satisfied, that in a British possession to which this section applies, duty is payable by reason of a death in respect of the property situate in such

possession and passing on such death, they shall allow a sum equal to the amount of that duty to be deducted from the estate duty payable in respect of that property on the same death.

(2) Nothing in this Act shall be held to create a charge for estate duty on any property situate in a British possession, while so situate, or to authorise the Commissioners to take any proceedings in a British possession for the recovery of any estate duty.

(3) Her Majesty the Queen may, by Order in Council, apply this section to any British possession, where Her Majesty is satisfied that, by the law of such possession, either no duty is leviable in respect of property situate in the United Kingdom when passing on the death, or that the law of such possession as respects any duty so leviable is to the like effect as the foregoing provisions of this section.

(4) Her Majesty in Council may revoke any such order, where it appears that the law of the British possession has been so altered that it would not authorise the making of an Order under this section.

Savings and Definitions

Savings

21.—(1) Estate duty shall not be payable on the death of a deceased person in respect of personal property settled by a will or disposition made by a person dying before the commencement of this Part of this Act, in respect of which property any duty mentioned in paragraphs one and two of the First Schedule to this Act, or the duty payable on any representation or inventory under any Act in force before the Customs and Inland Revenue Act, 1881, has been paid or is payable, unless in either case the deceased was at the time of his death, or at any time since the will or disposition took effect had been, competent to dispose of the property. -

[*Here see Section 55 of the Finance Act, 1910, and Section 14 of the Finance Act, 1914.*]

(2) Where a person died before the commencement of this Part of this Act, the duties mentioned in the First Schedule to this Act shall continue to be payable in like manner in all respects as if this Act had not passed.

(3) Where an interest in expectancy in any property has,

before the commencement of this Part of this Act, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property shall be payable by the purchaser or mortgagee when the interest falls into possession, than would have been payable if this Act had not passed; and in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgage.

(4) The settlement estate duty of 1 per cent shall not be payable in respect of property settled by a disposition which has taken effect before the commencement of this Part of this Act.

(5) Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which has taken effect before the commencement of this part of this Act, and on his or her death the survivor becomes entitled to the income of the property settled by such survivor, estate duty shall not be payable in respect of that property until the death of the survivor.

Definitions

22.—(1) In this part of this Act, unless the context otherwise requires—

- (a) The expressions "deceased person" and "the deceased" mean the person dying after the commencement of this Part of this Act:
- (b) The expression "will" includes any testamentary instrument:
- (c) The expression "representation" means probate of a will or letters of administration:
- (d) The expression "executor" means the executor or administrator of a deceased person, and includes, as regards any obligation under this part of this Act, any person who takes possession of or intermeddles with the personal property of a deceased person:
- (e) The expression "estate duty" means estate duty under this Act:
- (f) The expression "property" includes real property and personal property and the proceeds of sale thereof respectively and any money or investment for the time being representing the proceeds of sale:

- (g) The expression "agricultural property" means agricultural land pasture and woodland, and also includes such cottages, farm buildings, farm houses, and mansion houses (together with the lands occupied therewith) as are of a character appropriate to the property:
 - (h) The expression "settled property" means property comprised in a settlement:
 - (i) The expression "settlement" means any instrument, whether relating to real property or personal property, which is a settlement within the meaning of Section 2 of the Settled Land Act, 1882, or if it related to real property would be a settlement within the meaning of that section, and includes a settlement effected by a parol trust:
 - (j) The expression "interest in expectancy" includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases:
 - (k) The expression "incumbrances" includes mortgages and terminable charges:
 - (l) The expression "property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and the expression "on the death" includes "at a period ascertainable only by reference to the death":
 - (m) The expression "the Commissioners" means the Commissioners of Inland Revenue:
 - (n) The expression "Inland Revenue affidavit" means an affidavit made under the enactments specified in the Second Schedule to this Act with the account and schedule annexed thereto:
 - (o) The expression "prescribed" means prescribed by the Commissioners.
- (2) For the purposes of this Part of this Act—
- (a) A person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property, including a

tenant in tail whether in possession or not; and the expression "general power" includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself, or exercisable as tenant for life under the Settled Land Act, 1882, or as mortgagee:

(b) A disposition taking effect out of the interest of the deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required:

(c) Money which a person has a general power to charge on property shall be deemed to be property of which he has power to dispose.

(3) This Part of this Act shall apply to property in which the wife or husband of the deceased takes an estate in dower or by the curtesy or any other like estate, in like manner as it applies to property settled by the will of the deceased.

Application to Scotland

Application of Part of Act to Scotland

23. In the application of this Part of this Act to Scotland unless the context otherwise requires—

(1) The Court of Session shall be substituted for the High Court:

(2) "Sheriff Court" shall be substituted for "County Court":

(3) "Confirmation" shall be substituted for "representation":

(4) The expression "receiver of the property and of the rents and profits thereof," means a judicial factor upon the property:

(5) The expression "Inland Revenue affidavit" means the inventory of the personal estate of a deceased now required by law, and includes an additional inventory:

(6) The expression "on delivering the Inland Revenue affidavit" means on exhibiting and recording a duly stamped inventory as provided by Section 38 of the Act of the forty-eighth year of the reign of King George the Third, chapter one hundred and forty-nine:

(7) Section 34 of the Customs and Inland Revenue Act, 1881, shall be substituted for Section 33 of that Act, and the Acts referred to in such Section 34 shall extend to an estate of a gross value not exceeding five hundred pounds, and an application under the said Acts may be made to any commissary clerk, and any commissary clerk shall affix the seal of the Court to any representation granted in England or Ireland upon the same being sent to him for that purpose, enclosing a fee of two shillings and six pence:

(8) The expression "personal property" means moveable property:

(9) The expression "real property" includes heritable property:

(10) The expression "incumbrance" includes any heritable security, or other debt or payment secured upon heritage:

(11) The expression "executor" means every person who as executor, nearest of kin, or creditor, or otherwise, intromits or enters upon the possession or management of any personal property of a deceased person:

(12) The property comprised in any special assignation or disposition taking effect on death shall be deemed to pass on death within the meaning of this Act:

(13) The expression "trustee" includes a tutor, curator, and judicial factor:

(14) The expression "settled property" shall not include property held under entail:

(15) An institute or heir of entail in possession of an entailed estate shall whether *sui juris* or not be deemed for the purposes of this Act to be a person competent to dispose of such estate:

[*And see addition under Section 23 of the Finance Act, 1896.*]

(16) Where an entailed estate passes on the death of the deceased to an institute or heir of entail, who is not entitled to disentail such estate without either obtaining the consent of one or more subsequent heirs of entail or having the consent of such one or more subsequent heirs valued and dispensed with, settlement estate duty as well as estate duty shall be paid in respect of such estate, but neither estate duty nor settlement estate duty shall be payable again in respect of such estate, until such estate is disentailed, or until an heir of entail to whom it passes on or subsequent to the death of

the institute or heir first mentioned, and who is entitled to disentail it without the consent of any subsequent heir or heirs or having the consent of any subsequent heir or heirs valued and dispensed with, dies:

[*Here see Section 14 of the Finance Act, 1914.*]

(17) Where an institute or heir of entail in possession of an entailed estate, who is not entitled to disentail such estate without either obtaining the consent of one or more subsequent heirs of entail or having the consent of such one or more subsequent heirs valued and dispensed with, has paid estate duty in respect of such estate, and afterwards disentailes such estate, he shall be entitled to deduct from the value in money of the expectancy or interest in such estate of such one or more subsequent heirs, payable by him to them in respect of their consents having been granted or dispensed with, a proper rateable part of the estate duty paid by him as aforesaid:

(18) Where any person who pays estate duty on any property, and in whom the property is not vested, is by this Act authorised to raise such duty by the sale or mortgage of that property, or any part thereof, it shall be competent for such person to apply to the Court of Session—

(a) for an order of sale of the property or part of it, and in the event of the Court granting such order, it shall provide for the payment out of the price of the amount of the estate duty which has been paid by such person, and the Court shall thereafter make such order as to the disposal of the surplus, if any, of the price, by way of investment or otherwise, as to the Court shall seem proper; the Court may in such order specify the time and place at which, the person by whom, and the advertisement or notice after which the sale shall be made, and may ordain the person in whom the property is vested to grant a disposition thereof in favour of the purchaser, and if the person in whom the property is vested refuses or fails to do so, the Court shall grant authority to the clerk of Court to execute such disposition, and such disposition so executed shall be as valid as if it had been executed by the person in whom the property is vested; or

(b) for an order ordaining the person in whom the property is vested to grant a bond and disposition in security

over the property in favour of the person who has paid the estate duty, for the amount of the said duty, and if the person in whom the property is vested refuses, or fails to do so, the Court shall grant authority to the clerk of Court to execute such a bond and disposition in security, and such bond and disposition in security so executed shall be as valid as if it had been executed by the person in whom the property is vested, and shall be a first charge upon the property after any debt or incumbrance for which an allowance is directed to be made under this Act in determining the value of the property for the purpose of estate duty;

Provided also that summary diligence shall not be competent thereupon, and that nothing herein contained shall make the duty to be recovered by the methods of these subsections (a) and (b) recoverable at any earlier time than if it had been recovered by direct action against the person ultimately liable for the duty:

(19) This Part of this Act shall apply to property in which the wife or husband of the deceased takes an estate of terce or courtesy or any other like estate in like manner as it applies to property settled by the will of the deceased.

Commencement

Commencement of Part of Act

24. This Part of this Act shall come into operation on the first day of August, one thousand eight hundred and ninety-four, in this Part of this Act referred to as the commencement of this Part of this Act.

PART VI

Short Title

42. This Act may be cited as the Finance Act, 1894.

SCHEDULES

FIRST SCHEDULE

Existing Duties referred to

1. The stamp duties imposed by the Customs and Inland Revenue Act, 1881, on the affidavit to be required and received

from the person applying for probate or letters of administration in England or Ireland, or on the inventory to be exhibited and recorded in Scotland.

2. The stamp duties imposed by Section 38 of the Customs and Inland Revenue Act, 1881, as amended and extended by Section 11 of the Customs and Inland Revenue Act, 1889, on the value of personal or moveable property to be included in accounts thereby directed to be delivered.

3. The additional succession duties imposed by Section 21 of the Customs and Inland Revenue Act, 1888.

4. The temporary estate duties imposed by Sections 5 and 6 of the Customs and Inland Revenue Act, 1889.

5. The duty at the rate of one pound per cent which would by virtue of the Acts in force relating to legacy duty or succession duty have been payable under the will or intestacy of the deceased, or under his disposition or any devolution from him under which respectively estate duty has been paid, or under any other disposition under which estate duty has been paid.

SECOND SCHEDULE

Acts referred to

Section 22 (*n*)

Session and Chapter	Title or Short Title	Section referred to
55 Geo. 3, c. 184 56 Geo. 3, c. 56	The Stamp Act, 1815 An Act the title of which begins with the words "An Act to repeal the several stamp duties" and ends with the words "managing the said duties"	Section 38 Section 117
43 Vict., c. 14	The Customs and Inland Revenue Act, 1880	Section 10
44 & 45 Vict., c. 12	The Customs and Inland Revenue Act, 1881	Sections 29 and 32

Finance Act, 1896

[59 & 60 Vict. C. 28]

An Act to grant certain Duties of Customs and Inland Revenue, to alter other Duties, to amend the Law relating to Customs and Inland Revenue, and to make provision for the financial arrangements of the year. [7th August, 1897.]

PART IV

DEATH DUTIES

*Estate Duty***Exception to Passing of Property on Enlargement of Interest of Settlor**

14. Where property is settled by a person on himself for life, and after his death on any other persons with an ultimate reversion of an absolute interest or absolute power of disposition to the settlor, the property shall not be deemed for the purpose of the principal Act to pass to the settlor on the death of any such other person after the commencement of this Part of this Act, by reason only that the settlor, being then in possession of the property as tenant for life, becomes, in consequence of such death, entitled to the immediate reversion, or acquires an absolute power to dispose of the whole property.

Reverter of Property to Disposer

15.—(1) Where by a disposition of any property an interest is conferred on any person other than the disposer for the life of such person or determinable on his death, and such person enters into possession of the interest and thenceforward retains possession thereof to the entire exclusion of the disposer or of any benefit to him by contract or otherwise, and the only benefit which the disposer retains in the said property is subject to such life or determinable interest, and no other interest is created by the said disposition, then, on the death of such person after the commencement of this Part of this Act, the property shall not be deemed for the purpose of the principal Act to pass by reason only of its reverter to the disposer in his lifetime.

(2) Whereby a disposition of any property any such interest as above in this section mentioned is conferred on two or more persons, either severally or jointly, or in succession, this section shall apply in like manner as where the interest is conferred on one person.

(3) Provided that the foregoing subsections shall not apply where such person or persons taking the said life or determinable interest had at any time prior to the disposition been himself or themselves competent to dispose of the said property.

(4) Where the deceased person was entitled by law to the rents and profits of real property (as defined by Section 1 of the Succession Duty Act, 1853) of his wife, and has died in her lifetime, such property shall not be deemed for the purpose of the principal Act to pass on his death by reason of her then becoming entitled to the property in virtue of her former interest.

Estate Duty on Annuities

16. The estate duty due in respect of any annuity or other definite annual sum, whether terminable or perpetual, referred to in Section 2 (1) (d) of the principal Act, may, at the option of the person delivering the account, be paid by four equal yearly instalments, the first of which shall be due at the end of twelve months from the date of the death, and after the end of those twelve months interest on the unpaid portion of the duty shall be added to each instalment and paid accordingly, but the duty for the time being unpaid, with interest to the date of payment, may be paid at any time.

Estate Duty on Fractions of One hundred pounds

[17. Section 17 of the principal Act shall have effect as if there were added at the end thereof the following proviso in substitution for the existing proviso as to fractional parts of ten pounds—

Provided that where the principal value of an estate comprises a fraction of one hundred pounds in excess of one hundred pounds, or of any multiple of one hundred pounds, such fraction shall be excluded from the value of the estate for the purpose of determining both the rate and the amount of duty, except that where the principal value of the estate

exceeds one hundred pounds and does not exceed two hundred pounds the duty shall be one pound.]

[This Section is repealed by Section 18 of the Finance Act, 1900, as regards deaths on or after the 9th April, 1900.]

Interest upon Estate Duty and other Death Duties

18.—(1) Simple interest at the rate of 3 per cent per annum without deduction for income tax shall be payable upon estate duty from the date of the death of the deceased, or, where the duty is payable by instalments, or becomes due at any date later than six months after the death, from the date at which the first instalment or the duty becomes due, and shall be recoverable in the same manner as if it were part of the duty.

(2) The foregoing provision shall apply to the interest on all death duties as defined by Section 13 of the principal Act in like manner as if it were herein re-enacted, and made applicable to those duties.

(3) The Commissioners of Inland Revenue may remit the interest on any of such death duties where the amount appears to them to be so small as not to repay the expense and trouble of calculation and account.

[Here see Section 30 of the Finance Act, 1919.]

Incidence of Settlement Estate Duty

19.—(1) The settlement estate duty leviable in respect of a legacy or other personal property settled by the will of the deceased shall (unless the will contains an express provision to the contrary) be payable out of the settled legacy or property in exoneration of the rest of the deceased's estate.

(2) The settlement estate duty leviable in respect of any such legacy or property shall be collected upon an account setting forth the particulars of the legacy or property, and delivered to the Commissioners by the executor within six months after the death, or within such further time as the Commissioners may allow.

Objects of National, Scientific, or Historic Interest

20.—(1) Where any property passing on the death of a deceased person consists of such pictures, prints, books, manuscripts, works of art, scientific collections, or other things not yielding income as appear to the Treasury to be of national,

scientific, or historic interest, and is settled so as to be enjoyed in kind in succession by different persons, such property shall not, on the death of such deceased person, be aggregated with other property, but shall form an estate by itself, and, while enjoyed in kind by a person not competent to dispose of the same, be exempt from estate duty, but if it is sold or is in the possession of some person who is then competent to dispose of the same, shall become liable to estate duty.

(2) The person selling the same, or for whose benefit the same is sold, and also the person being in possession and competent to dispose of the same, shall be accountable for the duty, and shall deliver an account, in accordance with Section 8 of the principal Act, in the case of a sale within one month after the sale, and in the case of a person coming into possession, or if in possession becoming competent to dispose, within six months after he so comes into possession, or becomes competent to dispose.

[*Here see Section 63 of the Finance Act, 1910, Section 44 Finance Act, 1821, and Section 40 of the Finance Act, 1930.*]

Allowance of Succession Duty, etc., Paid out of Capital before Commencement of 57 & 58 Vict., c. 30

21. When on the death of a deceased person estate duty becomes payable by a person in respect of any property passing under a settlement made by a will or disposition which took effect before the commencement of the principal Act, and before that commencement any duty mentioned in paragraphs three to five of the First Schedule to the principal Act has been paid or is payable under the same will or disposition on the capital value of the property, the Commissioners of Inland Revenue shall allow the duty so paid or payable as a deduction from the estate duty to the extent to which it has been paid or is payable in respect of the property on which estate duty is payable.

Appeal from County Court under 57 & 58 Vict., c. 30, sect. 10

22. There shall be added to Subsection 5 of Section 10 of the principal Act the following proviso: Provided that in every such case any party shall have a right of appeal to Her Majesty's Court of Appeal.

23. The Finance Act, 1894, shall be construed as if there

were added in Section 23 thereof, after Subsection 15, the following enactment:

Amendment of 57 & 58 Vict., c. 30, as to certain Heirs of Entail in Scotland

Provided that for the purposes of Section 18 of this Act such institute or heir of entail shall not be deemed to be a person competent to dispose of such estate, unless he is entitled to disentail it without obtaining the consent of any subsequent heir of entail, or having the consent of any subsequent heir valued and dispensed with.

24.—(1) Unless the context otherwise requires—

Commencement and Construction of Part of Act

- (a) this Part of this Act shall come into operation on the first day of July, one thousand eight hundred and ninety-six, which day is in this Part of this Act referred to as the commencement of this Part of this Act; and
- (b) the expression “deceased person” means a person dying after the commencement of this Part of this Act;
- (2) Part I of the Finance Act, 1894, is in this Act referred to as “the principal Act.”

PART VII

MISCELLANEOUS

39. . . . Part IV of this Act shall be construed together with Part I of the Finance Act, 1894.

Repeal of Acts

40. The Acts mentioned in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned.

Short Title

41. This Act may be cited as the Finance Act, 1896.

SCHEDULE

Section 40

ACTS REPEALED

PART III

DEATH DUTIES

Session and Chapter	Short Title	Extent of Repeal
31 & 32 Vict., c. 124	An Act to amend the laws relating to the Inland Revenue	In Section 9, from "at the rate of four pounds," to "as part thereof"
57 & 58 Vict., c. 30	The Finance Act, 1894	Section 6, in Subsection 6, the words "at the rate of 3 per cent per annum," and the words "and shall form part of the Estate duty," and in Subsection 8, the words "less income tax" Section 8, Subsection 10 Section 17, from "provided that," to the end of the section

Finance Act, 1898

[61 & 62 Vict. C. 10]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue, and to make other provisions for the financial arrangements of the year.

[1st July, 1898].

PART V

ESTATE DUTIES

Persons not *sui juris* not to be deemed Competent to Dispose for the purpose of Breaking Settlement

13. Section 5, Subsection 2 of the Finance Act, 1894, shall be read and have effect as if the following words had been inserted at the end thereof, "and who if on his death subsequent limitations under the settlement take effect in respect of such property was *sui juris* at the time of his death or had been *sui juris* at any time while so competent to dispose of the property."

Settlement Estate Duty Repayment

14. Where in the case of a death occurring after the commencement of this Act settlement estate duty is paid in respect of any property contingently settled, and it is thereafter shown that the contingency has not arisen, and cannot arise, the said duty paid in respect of such property shall be repaid.

PART IV

MISCELLANEOUS

Short Title

17. This Act may be cited as the Finance Act, 1898.

Finance Act, 1900

[63 Vict. C. 7]

An Act to grant certain duties of Customs and Inland Revenue to alter other duties, and to amend the Law relating to Customs and Inland Revenue and the National Debt, and to make other provisions for the financial arrangements of the year.

[9th April, 1900.]

PART III

DEATH DUTIES

Amendment of 57 & 58 Vict., c. 30 as to Property passing on Death

11.—(1) In the case of every person dying after the thirty-first day of March, nineteen hundred, property whether real or personal in which the deceased person or any other person had

an estate or interest limited to cease on the death of the deceased shall, for the purpose of the Finance Act, 1894, and the Acts amending that Act, be deemed to pass on the death of the deceased, notwithstanding that that estate or interest has been surrendered, assured, divested, or otherwise disposed of, whether for value or not, to or for the benefit of any person entitled to an estate or interest in remainder or reversion in such property, unless that surrender, assurance, divesting, or disposition was *bonâ fide* made or effected twelve months before the death of the deceased, and *bonâ fide* possession and enjoyment of the property was assumed thereunder immediately upon the surrender, assurance, divesting, or disposition, and thenceforward retained to the entire exclusion of the person who had the estate or interest limited to cease as aforesaid, and of any benefit to him by contract or otherwise.

[Here see Section 59 (1) of the Finance Act, 1910, and Section 14 (c) of the Finance Act, 1914.]

(2) This section shall *inter alia* apply in Scotland to the conveyance or discharge of any life rent in favour of the fiar, or to the propulsiion of the fee under any simple or tailzied destination.

Amendment of 57 & 58 Vict., c. 30, sect. 4, as to Aggregation

12.—(1) The exclusion enacted by the proviso to Section 4 of the Finance Act, 1894, of property from aggregation shall in the case of every person dying after the passing of this Act cease to have effect, except as regards property in which the deceased never had an interest.

Provided that where an interest in expectancy (within the meaning of Part I of the Finance Act, 1894) in any property has before the passing of this Act been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this section had not passed; and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

(2) Where settled property passes, or is deemed to pass, on the death of a person dying after the passing of this Act under a disposition made by a person dying before the commencement of Part I of the Finance Act, 1894, and such property

would, if the disponent had died after the commencement of the said Part, have been liable to estate duty upon his death, the aggregation of such property, with other property passing upon the first-mentioned death, shall not operate to enhance the rate of duty payable either upon the settled property or upon any other property so passing by more than one-half per cent in excess of the rate at which duty would have been payable if such settled property had been treated as an estate by itself.

[*And see amendment under Section 16 of the Finance Act, 1907.*]

Amendment of 59 & 60 Vict., c. 28, sect. 17, as to Exclusion of Fractions from Value

13.—(1) For the purpose of determining the rate and the amount of duty, the exclusion under Section 17 of the Finance Act, 1896, of any fraction from the principal value of the estate shall in the case of every person dying after the passing of this Act cease to have effect.

(2) The Commissioners of Inland Revenue may, if they think fit, accept a statement by or on behalf of any accountable person as a correction of any Inland Revenue affidavit on account within the meaning of Part I of the Finance Act, 1894, for the purposes of that Act and the Acts amending that Act, without requiring that statement to be verified on oath.

Remission of Death Duties in case of Persons killed in War

14.—(1) Where any person dies from wounds inflicted, accident occurring, or disease contracted, within twelve months before death, while on active service against an enemy, whether on sea or land, and was, when the wounds were inflicted, the accident occurred, or the disease was contracted, either subject to the Naval Discipline Act or subject to military law, whether as an officer, non-commissioned officer, or soldier under Part V of the Army Act, the Treasury may, if they think fit, on the recommendation of the Secretary of State or of the Admiralty, as the case requires, remit, or in the case of duty already paid repay, up to an amount not exceeding one hundred and fifty pounds in any one case, the whole or any part of the death duties (within the meaning of Subsection 3 of Section 13 of the Finance Act, 1894), leviable in respect of

property passing upon the death of the deceased to his widow or lineal descendants if the total value for the purpose of estate duty of the property so passing does not exceed five thousand pounds.

(2) This section shall take effect in the case of any person dying since the eleventh day of October, one thousand eight hundred and ninety-nine.

[*Here see the Death Duties (Killed in War) Act, 1914, and the Extensions there noted.*]

PART VI

GENERAL

Repeal

13. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

Short Title

19. This Act may be cited as the Finance Act, 1900.

SCHEDULES

SECOND SCHEDULE

Repeals

Session and Chapter	Short Title	Extent of Repeal
57 & 58 Vict., c. 30	The Finance Act, 1894	Section 4, from "or which under a disposition" to "descendant of the deceased," and from "but if any benefit" to the end of the section, as respects persons dying after the passing of this Act.
59 & 60 Vict., c. 28	The Finance Act, 1896	Section 17 as respects persons dying after the passing of this Act.

Revenue Act, 1903

[3 Edw. 7, C. 46]

An Act to make certain amendments of the Law relating to Customs and Inland Revenue, and of the Law relating to the powers and duties of the National Debt Commissioners.

[14th August, 1903].

PART IV

MISCELLANEOUS

Provision as to Fixed Duty on Small Estates

14. Where, in the case of a person dying after the commencement of this Act, the fixed duty of thirty shillings or fifty shillings has been deposited or paid under Section 16 of the Finance Act, 1894 (which relates to the estate duty on small estates), and it is afterwards found that the gross value of the property on which estate duty is payable exceeds three hundred or five hundred pounds, as the case may be, the Commissioners of Inland Revenue, if they are satisfied that there were reasonable grounds for the original estimate of the value of the property, may (notwithstanding anything in Section 35 of the Customs and Inland Revenue Act, 1881), allow an amount equal to the fixed duty deposited or paid to be deducted from the estate duty payable in respect of the property.

Commencement and Short Title

17.—(2) This Act shall come into operation on the first day of September, nineteen hundred and three, and may be cited as the Revenue Act, 1903.

Finance Act, 1907

[7 Edw. 7, C. 13]

An Act to grant certain duties of Customs and Inland Revenue, to alter other Duties, and to amend the Law relating to Customs and Inland Revenue and the National Debt, and to make other provisions for the financial arrangements of the year.

[9th August, 1907.]

PART III

DEATH DUTIES

Amended Rates of Estate Duty

12. The scale set out in the First Schedule to this Act shall, in the case of persons dying on or after the nineteenth day of April, nineteen hundred and seven, be substituted for the scale of rates of estate duty set out in Section 17 of the Finance Act, 1894 (in this Part of this Act referred to as the principal Act)—

Provided that where an interest in expectancy (within the meaning of Part I of the principal Act) in any property has before the nineteenth day of April, nineteen hundred and seven, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this section had not passed; and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Extension of Power to Remit Death Duties

13. The power of the Commissioners under Subsection (11) of Section 8 of the principal Act to remit the payment of estate duty or interest thereon shall apply to the other duties which are included in the definition of death duties in Subsection (3) of Section 13 of that Act as well as to estate duty.

Power to Entertain Application for Discharge from Claims for Estate Duty made at any time

14. The Commissioners may, if they think fit, entertain any application made for the purpose of Subsection (2) of Section 11 of the principal Act (which relates to discharge from claims for estate duty), at whatever time the application is made; and, as respects any application so entertained, the provisions of that subsection shall have effect notwithstanding that the application is made before the lapse of the two years mentioned in that subsection.

Calculation of the Allowance to be made in respect of Duty
Paid before the Commencement of the Finance Act, 1894

15. The deduction to be allowed under Section 21 of the Finance Act, 1896, in respect of death duties previously paid on property on which estate duty is payable shall, instead of being the amount of the duty paid or payable, be the amount which would have been payable on account of the duty if the duty were calculated on the value of the property on which estate duty is payable: Provided that, if as respects any such deduction the person by whom the duty is payable requires the Commissioners, on the first delivery of his account, to calculate the deduction as if this section had not passed, the deduction shall be so calculated.

Limited Aggregation of certain Settled Property Abolished

16. In the case of persons dying on or after the nineteenth day of April, nineteen hundred and seven, any settled property which would, under Subsection (2) of Section 12 of the Finance Act, 1900, be aggregated with other property so as to enhance the rate of duty to the limited extent provided in that section, shall, for the purposes of the principal Act, instead of being so aggregated, be treated as an estate by itself.

[Here see amendment by Section 51, Finance Act, 1927.]

PART VII

GENERAL

Repeal, Construction, and Short Title

30.—(1) The Acts specified in the Third Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(2) . . . Part III of this Act shall be construed together with the Finance Act, 1894.

(3) This Act may be cited as the Finance Act, 1907.

Section 21

SCHEDULES

FIRST SCHEDULE

Scale of Rates of Estate Duty

Where the Principal Value of the Estate				Estate Duty shall be payable at the Rate per Cent of
Exceeds				
£100 and does not exceed		£500		One pound
500	"	"	1,000	Two pounds
1,000	"	"	10,000	Three pounds
10,000	"	"	25,000	Four pounds
25,000	"	"	50,000	Four pounds ten shillings
50,000	"	"	75,000	Five pounds
75,000	"	"	100,000	Five pounds ten shillings
100,000	"	"	150,000	Six pounds
150,000	"	"	250,000	Seven pounds
250,000	"	"	500,000	Eight pounds
500,000	"	"	750,000	Nine pounds
750,000	"	"	1,000,000	Ten pounds
1,000,000	"	"	1,500,000	Ten pounds on one million, and eleven pounds on the remainder
1,500,000	"	"	2,000,000	Ten pounds on one million, and twelve pounds on the remainder
2,000,000	"	"	2,500,000	Ten pounds on one million, and thirteen pounds on the remainder
2,500,000	"	"	3,000,000	Ten pounds on one million, and fourteen pounds on the remainder
3,000,000	.	.	.	Ten pounds on one million and fifteen pounds on the remainder

[See amended rates on deaths on or after 30th April, 1909, Section 54, Finance Act, 1910; on deaths after 15th August, 1914, Section 12, Finance Act, 1914; on deaths after 30th July, 1919, Section 29, Finance Act, 1919, and on deaths after 30th June, 1925, Section 22, Finance Act, 1925.]

DECEASED WIFE'S SISTER'S MARRIAGE ACT, 1907 271

THIRD SCHEDULE

Enactments Repealed

Section 30

Session and Chapter	Short Title	Extent of Repeal
57 & 58 Vict., c. 30	The Finance Act, 1894	The scale of the rates of Estate duty in Section 17, except as respects persons dying before the nineteenth day of April, nineteen hundred and seven.

Deceased Wife's Sister's Marriage Act, 1907

[7 Edw. 7, C. 47]

An Act to amend the Law relating to Marriage with a Deceased Wife's Sister. [28th August, 1907.]

2. . . . And no claim by the Crown for duties leviable on or with reference to death, and before the passing of this Act due and payable, and no payment, commutation, composition, discharge, or settlement of account in respect of any duties leviable on or with reference to death before the passing of this Act duly made or given, shall be prejudicially affected by anything herein contained.

6. This Act may be cited as the Deceased Wife's Sister's Marriage Act, 1907.

[*By the Deceased Brother's Widow's Marriage Act, 1921 (11 & 12 Geo. 5, c. 24) the provisions of the above Act have, with the necessary amendments, been made applicable to the converse case of marriage between a man and his deceased brother's widow.*]

Finance Act, 1910

[10 Edw. 7, C. 8]

An Act to grant certain Duties of Customs and Inland Revenue (including Excise), to alter other Duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and to make other financial provisions.

[29th April, 1910.]

PART I

[Here see Section 60 (3) *infra*.]

*Appeals***Appeals to Referees**

33.—(1) Except as expressly provided in this Part of this Act, any person aggrieved may appeal within such time and in such manner as may be provided by rules made under this section against the first or any subsequent determination by the Commissioners of the total value or site value of any land ; or against the amount of any assessment of duty under this Part of this Act ; or against a refusal of the Commissioners to make any allowance or to make the allowance claimed, where the Commissioners have power to make such an allowance under this Part of this Act ; or against any apportionment of the value of land or of duty or any assessment or apportionment of the consideration on any transfer or lease made by the Commissioners under this Part of this Act ; or against the determination of any other matter which the Commissioners are to determine or may determine under this Part of this Act :

Provided that—

- (a) an appeal shall not lie against a provisional valuation made by the Commissioners of the total or site value of any land except on the part of a person who has made an objection to the provisional valuation in accordance with this Act ; and
- (b) the original total value and the original site value and the site value as ascertained under any subsequent valuation shall be questioned only by means of an appeal against the determination by the Commissioners of that value where there is an appeal under this Act, and shall not be questioned in any case on an appeal against an assessment of duty.

(2) An appeal under this section shall be referred to such one of the panel of referees appointed under this Part of this Act as may be selected in manner provided by rules under this section, and the decision of the referee to whom the matter is so referred shall be given in the form provided by rules under this section and shall, subject to appeal to the Court under this section, be final.

(3) The referee shall determine any matter referred to him in consultation with the Commissioners and the appellant, or

any person nominated by the Commissioners and the appellant, respectively for this purpose, and may, if he thinks fit, order that any expenses incurred by the appellant be paid by the Commissioners, and that any such expenses incurred by the Commissioners be paid by the appellant.

Any order of the referee as to expenses may be made a rule of the High Court.

(4) Any person aggrieved by the decision of the referee may appeal against the decision to the High Court within the time and in the manner and on the conditions directed by Rules of Court (including conditions enabling the Court to require the payment of or the giving of security for any duty claimed); and subsections two, three, and four of section ten of the Finance Act, 1894, shall apply with reference to any such appeal;

Provided that where the total or site value as alleged by the Commissioners of the property in respect of which the dispute arises does not exceed five hundred pounds, the appeal under this section may be to the county court for the county or place in which the appellant resides or the property is situate, and this section shall for the purpose of the appeal apply as if such county court were the High Court, and in every such case any party shall have a right of appeal to the Court of Appeal.

(5) Provision shall be made by rules under this section with respect to the time within which and the manner in which an appeal may be made to a referee under this section, and with respect to the mode in which the referee to whom any reference is to be made is to be selected, and with respect to the form in which any decision of a referee is to be given, and with respect to any other matter for which it appears necessary or expedient to provide in order to carry this section into effect.

Those rules shall be made by the Reference Committee, subject to the approval of the Treasury.

The Reference Committee for England shall consist of the Lord Chief Justice of England, the Master of the Rolls, and the President of the Surveyors' Institution.

The Reference Committee for Scotland shall consist of the Lord President of the Court of Session, the Lord Justice Clerk, and the Chairman of the Scottish Committee of the Surveyors' Institution.

The Reference Committee for Ireland shall consist of the

Lord Chief Justice of Ireland, the Master of the Rolls in Ireland, and the President of the Surveyors' Institution.

The President of the Surveyors' Institution may, if he thinks fit, appoint any person, being a member of the council of that institution and having special knowledge of valuation in Ireland, to act in his place as a member of the Reference Committee in Ireland.

Appointment of Referees to hear Appeals

34.—(1) Such number of persons, being persons who have been admitted Fellows of the Surveyors' Institution, or other persons having experience in the valuation of land as may be appointed for England, Scotland, and Ireland, respectively, by the Reference Committee, shall form a panel of persons to act as referees for the purposes of this Part of this Act in England, Scotland, and Ireland, respectively, and persons having experience in the valuation of minerals shall be included in each panel.

(2) There shall be paid out of moneys provided by Parliament to every referee appointed under this section such fees or remuneration as the Treasury direct.

PART III

DEATH DUTIES

Amended Rates of Estate Duty and Settlement Estate Duty

54. The scale set out in the Second Schedule to this Act shall, in the case of persons dying on or after the thirtieth day of April nineteen hundred and nine, be substituted for the scale set out in the First Schedule to the Finance Act, 1907, as the scale of rates of estate duty, and two per cent shall be substituted for one per cent in section seventeen of the Finance Act, 1894 (in this Part of this Act referred to as the principal Act), as the rate of settlement estate duty.

Limitation of Relief from Estate Duty in respect of Settled Property

55. For the purpose of any claim to relief from estate duty under subsection (2) of section five or subsection (1) of section twenty-one of the principal Act, in the case of persons dying on or after the thirtieth day of April, nineteen hundred and

nine, payment of or liability to duty, whether the payment was made or the liability attached before, on, or after that date, shall not be deemed to be a payment of or liability to duty in respect of settled property if the payment was made or the liability attached in respect of an interest in expectancy in any property on the death of a person other than the settlor.

Power to Transfer Land in Satisfaction of Estate Duty, Settlement Estate Duty, or Succession Duty

56.—(1) The Commissioners may, if they think fit, on the application of any person liable to pay estate duty or settlement estate duty or succession duty in respect of any real (including leasehold) property, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Commissioners and that person.

(2) No stamp duty shall be payable on any conveyance or transfer of land to the Commissioners under this section.

(3) The Commissioners may hold any property transferred to them under this section and shall deal with it in such manner as Parliament may hereafter determine.

Limitations on Debts Deductible from Value of Estate

57. Where a debt or incumbrance has been incurred or created in whole or in part for the purpose of or in consideration for the purchase or acquisition or extinction, whether by operation of law or otherwise, of any interest in expectancy within the meaning of the principal Act in any property passing or deemed to pass on the death of a person dying after the passing of this Act, and any person whose interest in expectancy is so purchased, acquired, or extinguished becomes (under any disposition made by, or through devolution of law, or under the intestacy of, the deceased) entitled to any interest in that property, then in determining the value of the estate of the deceased for the purpose of estate duty no allowance shall be made in respect of such debt or incumbrance, and any property charged with any such debt or incumbrance shall be deemed to pass freed from that debt or incumbrance:

Provided that—

(a) If part only of such debt or incumbrance was incurred or created for such purpose or as such consideration as

aforesaid, this provision shall apply to that part of such debt or incumbrance only; and

- (b) If a person whose interest in expectancy in the property so purchased, acquired, or extinguished becomes entitled to an interest in part only of that property, this provision shall apply only to such part of the debt or incumbrance as bears the same proportion to the whole debt or incumbrance as the value of the part of the property to an interest in which he becomes entitled bears to the value of the whole of that property.

Amendment of Rates of Legacy Duty and Succession Duty

58.—(1) Any legacy or succession duty which under the Stamp Act, 1815, or the Succession Duty Act, 1853, or any other Act, is payable at the rate of three per cent shall be payable at the rate of five per cent, and any legacy or succession duty which under the said Acts is payable at the rate of five per cent or six per cent shall be payable at the rate of ten per cent on the amount or value of the legacy or succession.

(2) The legacy and succession duty payable at the rate of one per cent on the amount or value of any legacy or succession under the Stamp Act, 1815, and the Succession Duty Act, 1853, or any other Act, shall be levied and paid notwithstanding any repeal effected by or anything contained in the principal Act (except subsection (3) of section sixteen thereof) or any other Act, and the duty shall also be levied and paid in cases where the person taking the legacy or succession is the husband or wife of the testator, intestate, or predecessor as in cases where the person taking the legacy or succession is a lineal ancestor or descendant of the testator, intestate, or predecessor:

Provided that the duty shall not be levied—

- (a) Where the principal value of the property passing on the death of the deceased in respect of which estate duty is payable (other than property in which the deceased never had an interest, and property of which the deceased never was competent to dispose and which on his death passes to persons other than the husband or wife or a lineal ancestor or descendant of the deceased) does not exceed fifteen thousand pounds,

whatever may be the value of the legacy or succession :
or

- (b) Where the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate, or predecessor, does not exceed one thousand pounds, whatever may be the principal value of such property ;
or
- (c) Where the person taking the legacy or succession is the widow or a child under the age of twenty-one years of the testator, intestate, or predecessor, and the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate, or predecessor, does not exceed two thousand pounds, whatever may be the principal value of such property.

(3) In this section the expression "deceased" means, in the case of a legacy, the testator (including a person making a donation *mortis causâ*) or intestate, and, in the case of a succession arising through devolution by law, the person on whose death the succession arises, and, in the case of a succession arising under a disposition, the person on whose death the first succession thereunder arises ; and the expression "legacy" includes residue and share of residue.

(4) This section shall take effect in the case of legacy duty only where the testator by whose will the legacy is given or the intestate on whose death the legacy duty is payable, dies on or after the thirtieth day of April nineteen hundred and nine, and, in the case of a succession arising through devolution by law, only where the succession arises on or after that date, and, in the case of a succession arising under a disposition, only if the first succession under the disposition arises on or after that date.

[Here see Section 24 Finance Act, 1925.]

Provision as to Gifts and Dispositions *inter vivos*

59.—(1) In the case of a person dying on or after the thirtieth day of April nineteen hundred and nine, the period preceding the death of the deceased before which a disposition purporting to operate as an immediate gift *inter vivos* must have been made, or a surrender, assurance, divesting, or disposition must

have been made or effected, in order that the property taken under the disposition, or effected by the surrender, assurance, divesting, or disposition, may not be included as property passing on the death of the deceased, shall be three years instead of twelve months before the death, and accordingly paragraph (a) of subsection (2) of section thirty-eight of the Customs and Inland Revenue Act, 1881 (as amended by section eleven of the Customs and Inland Revenue Act, 1889, and applied by paragraph (c) of subsection (1) of section two of the principal Act), subsection (3) of section two of the principal Act, and section eleven of the Finance Act, 1900, shall be read as if three years were substituted for twelve months:

Provided that this section shall not apply to any gift *inter vivos*, surrender, assurance, divesting, or disposition made or effected before the thirtieth day of April nineteen hundred and eight, or made or effected for public or charitable purposes.

(2) So much of paragraph (c) of subsection (1) of section two of the principal Act and this section as makes gifts *inter vivos* property which is deemed to pass on the death of the deceased, shall not apply to gifts which are made in consideration of marriage, or which are proved to the satisfaction of the Commissioners to have been part of the normal expenditure of the deceased, and to have been reasonable, having regard to the amount of his income, or to the circumstances, or which, in the case of any donee, do not exceed in the aggregate one hundred pounds in value or amount.

(3) Where property taken under such a disposition or effected by such a surrender, assurance, divesting, or disposition as aforesaid is deemed to be property passing on the death of the deceased by reason only that the property was not, as from the date of the disposition, surrender, assurance, or divesting, retained to the entire exclusion of the deceased or a person who had an estate or interest limited to cease on the death of the deceased, and of any benefit to him by contract or otherwise, the property shall not be deemed to pass on the death of the deceased if subsequently, by means of the surrender of the benefit reserved or otherwise, it is enjoyed to the entire exclusion of the deceased or such other person as aforesaid, and of any benefit to him by contract or otherwise, for such period preceding the death of the deceased as is provided by this section.

Amendment as to Value of Property

60.—(1) In the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, the proviso to subsection (5) of section seven of the principal Act (which relates to the estimation of the principal value of property for estate duty) shall cease to have effect.

(2) In estimating the principal value of any property under subsection (5) of section seven of the principal Act, in the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, the Commissioners shall fix the price of the property according to the market price at the time of the death of the deceased, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time:

Provided that where it is proved to the Commissioners that the value of the property has been depreciated by reason of the death of the deceased, the Commissioners in fixing the price shall take such depreciation into account.

(3) An appeal shall not lie under section ten of the principal Act, whether as originally enacted or as applied by any other enactment, where the question in dispute is a question of the value of any real (including leasehold) property, but, if any person is aggrieved by the decision of the Commissioners as to the value of any such property, he may appeal against the decision in manner prescribed by Part I of this Act, and the provisions as to appeals under that Part of this Act shall apply accordingly.

[See Section 33, *supra*.]

Special Provision with respect to Certain Classes of Property

61.—(1) Notwithstanding anything in the last preceding section, the proviso to subsection (5) of section seven of the principal Act shall continue to apply to the valuation of property consisting of a tenancy from year to year, including any tenancy which is, or is deemed to be, subject to statutory conditions under the Land Law (Ireland) Acts, and for determining the gross value or the net value of property for the purpose of section sixteen of the principal Act.

(2) Where it is claimed that a fixed duty is payable in respect of any property under subsection (1) of section sixteen of the

principal Act as being property of a gross value not exceeding three hundred pounds or five hundred pounds, as the case may be, and such property includes property which is proved to the satisfaction of the Commissioners to be subject to a charge created for the purpose of securing unpaid purchase money, or money borrowed for the purpose of paying purchase money, or to be subject to or liable to be made subject to a charge for securing an advance made or to be made for the purpose of the purchase thereof, the value thereof for the purpose of determining the gross value of the property under the said section shall be taken to be its value subject to such charge or liability as aforesaid.

(3) Land subject to an annuity under the Land Purchase (Ireland) Acts shall be treated as real property for the purpose of subsection (8) of section six of the principal Act (relating to the payment of estate duty by instalments).

(4) Where the property passing on the death of a person dying after the passing of this Act comprises the purchase money of land agreed to be sold under the Land Purchase (Ireland) Acts, but the purchase money has not been paid, the estate duty payable in respect of that purchase money may, at the option of the person liable to pay the same, be postponed until the purchase money is actually paid, and shall then become payable, but the person liable to pay the duty shall in the meantime pay annually interest on the amount of duty payable at the rate of three per cent per annum.

(5) Where an estate, in respect of which estate duty is payable on the death of a person dying *after the passing of this Act*,¹ comprises land on which timber, trees, or wood are growing, the value of such timber, trees, or wood shall be aggregated with the other property passing on the death of the deceased for the purpose of determining the value of the estate and the rate of estate duty, but the estate duty which, but for this subsection, would be payable on the principal value of the timber, trees, or wood shall not be payable thereon, but shall, at the rate so ascertained, be payable on the net moneys (if any), after deducting all necessary outgoings since the death of the deceased, which may from time to time be received from the sale of the timber, trees, or wood, when felled, during the period which may elapse until the land on the death of some

¹ See amendment by Section 10 of the Finance Act, 1911, and repeal by Section 9 of the Finance Act, 1912.]

other person again becomes liable or would, but for this subsection, have become liable to estate duty, and the owners or trustees of such land shall account for and pay the same accordingly as and when such moneys are received, with interest at the rate of three per cent per annum from the date when such moneys are received:

Provided that if at any time the timber, trees, or wood, are sold, either with or apart from the land on which they are growing, the amount of estate duty on the principal value thereof which, but for this subsection, would have been payable on the death of the deceased, after deducting the amount (if any) of estate duty paid in respect of the timber, trees, or wood under this subsection since that date, shall become payable.

This subsection shall apply to succession duty payable in respect of woodlands in like manner as it applies to estate duty, except that nothing in this subsection shall affect the rate of succession duty.

Deduction of Amount Paid for Increment Value Duty from Value of Estate for Purposes of Estate Duty

62. Where increment value duty is to be collected on the occasion of the death of any person in respect of the fee simple of any land or any interest in land, comprised in the property passing on the death of that person, allowance shall be made in determining the value of the estate for the purposes of estate duty under section (1) of section seven of the principal Act, for the amount of increment value duty so to be collected as if it were a debt.

Extension of Exemption of Objects of National, Scientific, or Historic Interest

63. In the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, section twenty of the Finance Act, 1896 (which gives an exemption for objects of national, scientific, or historic interest), shall be extended so as to give an exemption from legacy and succession duty as well as from estate duty, and as so extended shall take effect whether the property in respect of which the exemption is given is settled or not, and as if the reference therein to national, scientific, or historic interest included a reference to artistic interest, and duty shall only become chargeable when

the property is sold, and then only in respect of the last death on which the property passed.¹

Protection of Purchasers and Mortgagees of Interests in Expectancy

64. Where an interest in expectancy within the meaning of Part I of the principal Act in any property has, before the thirtieth day of April nineteen hundred and nine, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

PART VIII

GENERAL

Penalty for making False Statement or Representation

94. If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour.

Repeal, Construction, and Short Title

96.—(1) The Acts specified in the Sixth Schedule to this Act are hereby repealed to the extent mentioned in the Third column of that Schedule.

(2) Any reference to "the Commissioners" in Part II, Part VI, or Part VII of this Act shall be construed as a reference to the Commissioners of Customs and Excise, and any reference to "the Commissioners" in any other Part of this Act shall be construed as a reference to the Commissioners of Inland Revenue.

(3) Part III of this Act shall be construed together with the Finance Act, 1894.

(7) This Act may be cited as the Finance (1909-10) Act, 1910.

[¹ See Section 44 *Finance Act, 1921*, and Section 40 of the *Finance Act, 1930*.]

SCHEDULES

Section 54

SECOND SCHEDULE

Scale of Rates of Estate Duty

Where the Principal Value of the Estate				Estate Duty shall be Payable at the Rate per cent of
Exceeds	£		£	
	100 and does not exceed		500	1
"	500	"	1,000	2
"	1,000	"	5,000	3
"	5,000	"	10,000	4
"	10,000	"	20,000	5
"	20,000	"	40,000	6
"	40,000	"	70,000	7
"	70,000	"	100,000	8
"	100,000	"	150,000	9
"	150,000	"	200,000	10
"	200,000	"	400,000	11
"	400,000	"	600,000	12
"	600,000	"	800,000	13
"	800,000	"	1,000,000	14
"	1,000,000	.	.	15

[See amended rates on deaths after 15th August, 1914, Section 12, Finance Act, 1914, on deaths after 30th July, 1919, Section 29, Finance Act, 1919, and on deaths after 30th June, 1925, Section 22, Finance Act, 1925.]

Section 96

SIXTH SCHEDULE

Enactments Repealed

Session and Chapter	Title or Short Title	Extent of Repeal
36 Geo. 3. c. 52	The Legacy Duty Act, 1796	In section fourteen, so far as it applies to objects which appear to the Treasury to be of national, scientific, historic, or artistic interest, the words from "and given to" to "persons in succession"; the word "so," where it secondly occurs; the words from "not having any power" to "property yielding an income"; the words from "or shall come" to "having an absolute interest therein"; the

Session and Chapter	Title or Short Title	Extent of Repeal
54 Geo. 3, c. 92	The Probate and Legacy Duties (Ireland) Act, 1814	word "same," where it fifthly occurs; the words from "as if the same had been" to "or dispose thereof"; and the words from "or who shall have" to "an absolute interest therein." In section fifteen, so far as it applies to objects which appear to the Treasury to be of national, scientific, historic, or artistic interest, the words from "and given to" to "persons in succession"; the word "so," where it secondly occurs; the words from "not having any power" to "property yielding an income"; the words from "or shall come" to "having an absolute interest therein"; the word "same," where it fifthly occurs; the words from "as if the same had been" to "or dispose thereof"; and the words from "or who shall have" to "an absolute interest therein"
16 & 17 Vict., c. 51	The Succession Duty Act, 1853	Section twenty-three, except as respects persons dying before the passing of this Act
59 & 60 Vict., c. 28	The Finance Act, 1896	In section twenty, the words from "and is settled" to "by different persons"; the words "by a person not competent to dispose of the same"; the words "or is in the possession of some person who is then competent to dispose of the same"; the words "and also the person being in possession and competent to dispose of the same"; and the words from "and in the case" to the end of the section, except as respects persons dying before the thirtieth day of April, nineteen hundred and nine
7 Edw. 7, c. 13	The Finance Act, 1907	. . . and section twelve, and the First Schedule, except as respects persons dying before the thirtieth day of April nineteen hundred and nine

Finance Act, 1911

[1 & 2 Geo. 5, Ch. 48]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make other provisions for the financial arrangements of the year. [16th Dec., 1911.]

PART V**DEATH DUTIES****Valuation of Cottages for Purposes of Estate Duty**

18. It is hereby declared that, in estimating for the purposes of subsection (5) of section seven of the Finance Act, 1894, the principal value of any agricultural property which comprises cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottage is suitable for the residential purposes of any persons other than agricultural labourers or workmen on the estate.

Amendment of 10 Edw. 7, c. 8, sect. 61 (5)

19. Subsection (5) of section sixty-one of the Finance (1909-10) Act, 1910 (which relates to duty in respect of timber, trees, or wood) shall have effect and shall be deemed always to have had effect as if the words "on or after the thirtieth day of April nineteen hundred and nine," were substituted for the words "after the passing of this Act."

[*This Section is repealed by Section 9 of the Finance Act, 1912.*]

PART VI**GENERAL**

22.—(3) This Act may be cited as the Finance Act, 1911.

Finance Act, 1912

[2 & 3 Geo. 5, Ch. 8]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make other provisions for the financial arrangements of the year.

[7th August, 1912.]

PART III**INLAND REVENUE (MISCELLANEOUS)****Estate Duty on Timber**

9. Where an estate, in respect of which estate duty is payable on the death of a person dying on or after the thirtieth day of April nineteen hundred and nine, comprises land on which timber, trees, wood, or underwood are growing, the value of such timber, trees, wood, or underwood shall not be taken into account in estimating the principal value of the estate or the rate of estate duty, and estate duty shall not be payable thereon, but shall, at the rate due to the principal value of the estate, be payable on the net moneys (if any), after deducting all necessary outgoings since the death of the deceased, which may from time to time be received from the sale of timber, trees, or wood when felled or cut during the period which may elapse until the land, on the death of some other person, again becomes liable or would, but for this subsection, have become liable to estate duty, and the owners or trustees of such land shall account for and pay the same accordingly as and when such moneys are received, with interest at the rate of three per cent per annum from the date when such moneys are received.

This section shall take effect in substitution for the first paragraph of subsection (5) of section sixty-one of the Finance (1909-10) Act, 1910, and that paragraph and section nineteen of the Finance Act, 1911, are hereby repealed.

PART V**GENERAL**

13.—(2) This Act may be cited as the Finance Act, 1912.

Finance Act, 1914

[4 & 5 Geo. 5, Ch. 10]

An Act to continue the Duty of Customs on Tea, to reimpose Income Tax and Super-Tax, with amendments and modifications, and to amend the Law relating to Death Duties and the National Debt, and for purposes incidental thereto.
[31st July, 1914.]

PART III**DEATH DUTIES****Amended Rates of Estate Duty**

12. The scale set out in the First Schedule to this Act shall, in the case of persons dying after the fifteenth day of August, nineteen hundred and fourteen, be substituted for the scale of rates of estate duty set out in the Second Schedule to the Finance (1909-10) Act, 1910, as the scale of rates of estate duty.

Reduction of Full Amount of Duty where the margin above the Limit of Value is small

13.—(1) The amount of estate duty payable on an estate at the rate applicable thereto under the scale of rates of duty shall, where necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the estate exceeds the value on which the highest amount of duty would be so payable at the lower rate.

(2) Where the net value of the property real and personal in respect of which estate duty is payable on the death of the deceased exclusive of property settled otherwise than by the will of the deceased, exceeds one thousand pounds, the amount of legacy and succession duty payable in respect of the property shall not exceed the amount by which the net value of the property as estimated for the purposes of estate duty exceeds one thousand pounds.

Abolition of Settlement Estate Duty and of Relief in Respect of Settled Property

14. Any relief from the payment of estate duty given by subsection (2) of section five, or by subsection (1) of section

twenty-one of the Finance Act, 1894 (which relate to settled property), or by subsection (16) of section twenty-three of that Act (which relates to entailed estates in Scotland) shall cease in the case of any person dying after the fifteenth day of August, nineteen hundred and fourteen, and settlement estate duty shall not be levied in the case of persons dying after the eleventh day of May, nineteen hundred and fourteen:

Provided that—

- (a) nothing in this section shall affect the relief given by the above-mentioned provisions of the Finance Act, 1894, in cases where, before or after the passing of this Act, estate duty has been paid or any of the duties specified in subsection (1) of section twenty-one of that Act have, either before or after the passing of this Act, been paid or are payable upon the death of one of the parties to a marriage, so far as respects the payment of estate duty on the death of the other party to the marriage; and
- (b) on the first occasion on which estate duty becomes payable in respect of any property which would not have been payable but for this section, the amount of settlement estate duty, if any, which has been paid in respect of that property, shall be allowed against the amount of estate duty payable on that occasion, and if it exceeds that amount, the excess shall be repaid to the estate, and in addition, a sum equal to simple interest on the said amount of settlement estate duty calculated at the rate of three per cent per annum from the fifteenth day of August, nineteen hundred and fourteen, up to the date of the occasion shall be paid to the several persons or their representatives who would have been entitled to the income arising from that amount, if that amount had on the fifteenth day of August, nineteen hundred and fourteen, been added to the capital of the settled property and shall be divided amongst those persons or their representatives according to the several interests they would have had in that income; and
- (c) Section eleven of the Finance Act, 1900, as amended by section fifty-nine of the Finance (1909-10) Act, 1910, shall not operate on any such surrender, assurance, divesting, or disposition as is mentioned in the said

section eleven made by any person between the fifteenth day of August, nineteen hundred and fourteen, and the first day of April, nineteen hundred and fifteen, so as to make any estate duty payable on the death of that person which would not have been payable but for this section.

Relief in respect of Quick Succession where Property Consists of Land or a Business

15. Where the Commissioners of Inland Revenue are satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death (if the death occurs after the passing of this Act) in respect of the property so passing shall be reduced as follows—

Where the second death occurs within one year of the first death, by fifty per cent ;

Where the second death occurs within two years of the first death, by forty per cent ;

Where the second death occurs within three years of the first death, by thirty per cent ;

Where the second death occurs within four years of the first death, by twenty per cent ;

Where the second death occurs within five years of the first death, by ten per cent :

Provided that where the value, on which the duty is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

Protection of Purchasers and Mortgagees of Interests in Expectancy

16. Where an interest in expectancy within the meaning of Part I of the Finance Act, 1894, in any property has, before

the eleventh day of May, nineteen hundred and fourteen, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

PART V

MISCELLANEOUS

Repeal, Construction, and Short Title

18.—(1) The enactments specified in the Second Schedule to this Act, are hereby repealed to the extent mentioned in the third column of that Schedule.

Part III of this Act shall be construed together with the Finance Act, 1894.

(3) This Act may be cited as the Finance Act, 1914.

THE SCHEDULES ABOVE REFERRED TO

Section 12

FIRST SCHEDULE

Scale of Rates of Estate Duty

Where the Principal Value of the Estate				Estate Duty shall be Payable at the rate per cent of
Exceeds	£		£	
	100 and does not exceed		500	1
"	500	"	"	2
"	1,000	"	"	3
"	5,000	"	"	4
"	10,000	"	"	5
"	20,000	"	"	6
"	40,000	"	"	7
"	60,000	"	"	8
"	80,000	"	"	9
"	100,000	"	"	10
"	150,000	"	"	11
"	200,000	"	"	12

Where the Principal Value of the Estate				Estate Duty shall be Payable at the rate per cent of
Exceeds	£ 250,000	and does not exceed	£ 300,000	13
„	300,000	„	350,000	14
„	350,000	„	400,000	15
„	400,000	„	500,000	16
„	500,000	„	600,000	17
„	600,000	„	800,000	18
„	800,000	„	1,000,000	19
„	1,000,000	.	.	20

[See amended rates on deaths after 30th July, 1919, Section 29, Finance Act, 1919, and on deaths after 30th June, 1925, Section 22, Finance Act, 1925.]

SECOND SCHEDULE

Enactments Repealed

Section 18

Session and Chapter	Short Title	Statutes Repealed
57 & 58 Vict., c. 30	The Finance Act, 1894	Subsections (1) and (4) of section five; in section seventeen the words "the rate of the settlement estate duty where the property is settled shall be two per cent"; subsection (4) of section twenty-one
10 Edw. 7, c. 8	The Finance (1909-10) Act, 1910	Section fifty-four and the Second Schedule as respects persons dying after the fifteenth day of August, one thousand nine hundred and fourteen; . . .

Death Duties (Killed in War) Act, 1914

[4 & 5 Geo. 5. Ch. 76]

An Act to extend and vary as respects the present War, the relief from Death Duties given under section fourteen of the Finance Act, 1900. [31st August, 1914.]

Extension of Remission of Death Duties in case of Persons killed in the Present War

1.—(1) Section fourteen of the Finance Act, 1900 (which relates to the remission of death duties in case of persons killed in war), shall have effect as respects the present war as if it applied to property passing to lineal ancestors as well as to property passing to the widow or lineal descendants, and as if the amount of the duty to be remitted or repaid under that section were, instead of the amount therein mentioned, the following amounts—

- (a) Where the value for the purpose of estate duty of the property passing to the widow, lineal descendants, or lineal ancestors does not exceed five thousand pounds, the whole of the death duties leviable in respect of that property; and
- (b) Where the said value exceeds five thousand pounds—
 - (i) in respect of the first five thousand pounds, the whole of the death duties; and
 - (ii) so much of the duties leviable in respect of the remainder as exceeds the sum which, if accumulated at compound interest at the rate of three per centum per annum from the date of death with half-yearly rests would, at the expiration of the period of the normal expectation of life of a person of the age of the deceased at the time of death (calculated in accordance with the Tables of Mortality of Government Life Annuitants, 1912), amount to the whole of the duties so leviable.

(2) The benefits of the relief given by this section as respects the first five thousand pounds shall be apportioned rateably among the several persons who would otherwise bear the duties remitted or repaid according to the amounts which they would so bear and without regard to their respective rights of priority.

(3) Where the relief in respect of estate duty afforded to the widow, lineal descendants, or lineal ancestors by section fifteen of the Finance Act, 1914, would be greater than that afforded to them in respect of estate duty by this section, the relief in respect of estate duty shall be that under the said section fifteen and not that under this section, but in other cases the relief afforded by the said section fifteen shall not apply to any estate duty to which this section applies.

Remission of Estate Duty in respect of Property Passing more than once owing to Deaths caused by the War

2.—(1) Where the Commissioners of Inland Revenue are satisfied that estate duty has become payable on any property passing on the death of any person to which section one of this Act applies, and that subsequently estate duty has again become payable on the same property or any part thereof passing on the death of some other person to which section one of this Act applies, the whole of the estate duty payable on such subsequent death in respect of the property so passing shall be remitted, or, in case the duty has been paid, repaid, and the property shall not be aggregated with any other property passing on such subsequent death for the purpose of determining the rate of estate duty.

(2) This section shall apply whether or not on any such death any property passes to the widow or lineal descendants or lineal ancestors of the deceased.

Short Title.

3. This Act may be cited as the Death Duties (Killed in War) Act, 1914.

[*And see extensions by Section 46 of the Finance (No. 2) Act, 1915, Section 29 of the Finance Act, 1917, Section 44 of the Finance Act, 1918, and Section 31 of the Finance Act, 1919, Section 43 of the Finance Act, 1921, and Section 38, Finance Act, 1924.*]

Finance (No. 2) Act, 1915

[5 & 6 Geo. 5. Ch. 89]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connexion with Finance.

[23rd December, 1915.]

PART IV

GENERAL

Extension of 4 & 5 Geo. 5, c. 76, to Legacy and Succession Duty.

46. Section two of the Death Duties (Killed in War) Act, 1914 (which provides for the remission of estate duty in respect

of property passing more than once owing to deaths caused by the war), shall apply, and shall be deemed always to have applied, to succession and legacy duty as well as to estate duty.

Power of Treasury to issue Securities Free of Taxation

47. The Treasury may, if they think fit, during the continuance of the present war and a period of twelve months thereafter, issue any securities which they have power to issue for the purpose of raising any money or any loan with a condition that neither the capital nor the interest thereof shall be liable to any taxation, present or future, so long as it is shown in manner directed by the Treasury that the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom, and securities issued with such a condition shall be exempt accordingly.

Short Title

51. . . . (3) This Act may be cited as the Finance (No. 2) Act, 1915.

Finance Act, 1917

[7 & 8 Geo. 5. Ch. 31]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connexion with Finance. [2nd August, 1917.]

PART IV

DEATH DUTIES

Remission of Death Duties in cases of Members of the Crews of Vessels killed in War

29. Section fourteen of the Finance Act, 1900, as extended by the Death Duties (Killed in War) Act, 1914, and section forty-six of the Finance (No. 2) Act, 1915, shall apply in the case of a master or a member of the crew of a ship or a fishing boat dying, whether before or after the passing of this Act, from causes arising out of the operation of the present war and within twelve months from the occurrence to which death is

due, in like manner as it applies in the case of a person dying from such wounds, accident, or disease as are mentioned in the said section fourteen, with this qualification, that the Treasury shall act on the recommendation of the Board of Trade instead of on that of the Secretary of State or the Admiralty.

PART VII

GENERAL

Construction and Short Title

38.—(1) . . . Part IV of this Act shall be construed together with the Finance Act, 1894.

(2) This Act may be cited as the Finance Act, 1917.

Finance Act, 1918

[8 & 9 Geo. 5. Ch. 15]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise and the National Debt, and to make further provision in connexion with Finance. [30th July, 1918.]

PART V

GENERAL

Extension of 4 & 5 Geo. 5, c. 76 to Property Passing to Certain Collaterals

44. The Death Duties (Killed in War) Act, 1914 (which extends as respects the present war the relief from death duties given by section fourteen of the Finance Act, 1900), shall have effect, and shall be deemed always to have had effect, as though the references therein to lineal ancestors included references to brothers and sisters and the descendants of brothers and sisters of the deceased.

Short Title

45.— . . . (3) This Act may be cited as the Finance Act, 1918.

Finance Act, 1919

[9 & 10 Geo. 5. Ch. 32]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provisions in connexion with Finance.

[31st July, 1919.]

PART III**DEATH DUTIES****Amended Rates of Estate Duty**

29. The scale set out in the Third Schedule to this Act shall, in the case of persons dying after the commencement of this Act, be substituted for the scale set out in the First Schedule to the Finance Act, 1914, as the scale of rates of estate duty:

Provided that, where an interest in expectancy within the meaning of Part I of the Finance Act, 1894, in any property has, before the thirteenth day of April, nineteen hundred and nineteen been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Interest on Death Duties

30. Section eighteen of the Finance Act, 1896 (which determines the rate of interest on death duties), shall, in its application to interest accruing due after the commencement of this Act, have effect as though four per cent were substituted for three per cent as the rate of interest per annum.

Extension of Relief from Death Duties in case of Persons killed in the War

31. Section fourteen of the Finance Act, 1900 (which relates to the remission of death duties in case of persons killed in war), and any enactment amending or extending that

section, shall, in their application to the present war, have effect and be deemed always to have had effect as though—

- (a) three years were substituted for twelve months wherever that expression occurs; and
- (b) in the said section fourteen the expression “wounds inflicted, accident occurring or disease contracted while on active service against an enemy” included wounds inflicted, accident occurring or disease contracted in the course of operations arising directly out of the present war, but after its termination.

PART V

GENERAL

Construction and Short Title

38.—(1) . . . Part III of this Act shall be construed together with the Finance Act, 1894.

(2) This Act may be cited as the Finance Act, 1919.

SCHEDULE

THIRD SCHEDULE

Scale of Rates of Estate Duty

Section 29

Where the Principal Value of the Estate				Estate Duty shall be Payable at the Rate per cent of
Exceeds	£		£	
	100 and does not exceed		500	1
„	500	„	1,000	2
„	1,000	„	5,000	3
„	5,000	„	10,000	4
„	10,000	„	15,000	5
„	15,000	„	20,000	6
„	20,000	„	25,000	7
„	25,000	„	30,000	8
„	30,000	„	40,000	9
„	40,000	„	50,000	10
„	50,000	„	60,000	11
„	60,000	„	70,000	12
„	70,000	„	90,000	13
„	90,000	„	110,000	14

THIRD SCHEDULE—(*contd.*)

Where the Principal Value of the Estate				Estate Duty shall be Payable at the Rate per cent of
Exceeds	£	and does not exceed	£	
"	110,000	"	130,000	15
"	130,000	"	150,000	16
"	150,000	"	175,000	17
"	175,000	"	200,000	18
"	200,000	"	225,000	19
"	225,000	"	250,000	20
"	250,000	"	300,000	21
"	300,000	"	350,000	22
"	350,000	"	400,000	23
"	400,000	"	450,000	24
"	450,000	"	500,000	25
"	500,000	"	600,000	26
"	600,000	"	800,000	27
"	800,000	"	1,000,000	28
"	1,000,000	"	1,250,000	30
"	1,250,000	"	1,500,000	32
"	1,500,000	"	2,000,000	35
"	2,000,000	.	.	40

Finance Act, 1921

[11 & 12 Geo. 5. Ch. 32]

An Act to grant duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise, and the National Debt, and to make further provision in connexion with Finance.

[4th August, 1921.]

PART IV**DEATH DUTIES**

Extension of sect. 14 of 63 & 64 Vict., c. 7, to Persons killed during Disorders in Ireland

43.—(1) The provisions of section fourteen of the Finance Act, 1900, under which, as amended by subsequent enactments, relief is given in respect of the death duties payable on property passing on the death of certain persons killed in the

present war, shall, subject to the provisions of this section, have effect in the case of persons, being persons to whom this section applies, who die from causes arising directly out of the present state of disorder in Ireland as they have effect in the case of the persons killed as aforesaid.

(2) The persons to whom this section applies are the members of any of His Majesty's Forces, judges, magistrates, members of any police force in Ireland (including special constables), and members of His Majesty's Civil Service, serving in Ireland.

(3) The Treasury shall, for the purposes of this section, act in the case of persons who are not members of His Majesty's Forces on the recommendation of the Lord Lieutenant of Ireland.

(4) This section shall apply in the case of any persons dying from any such causes as aforesaid arising at any time after the thirty-first day of December, nineteen hundred and eighteen, and before such date as His Majesty may by Order in Council fix.

Objects of National, Scientific, Historic, and Artistic Interest to be Exempt from Death Duties if Sold to National or Public Institutions

44. Notwithstanding anything in section twenty of the Finance Act, 1896 (which, as amended by section sixty-three of the Finance (1909-10) Act, 1910, gives exemption from estate duty, legacy duty, and succession duty to objects of national, scientific, historic, and artistic interest so long as they remain unsold), or in the said section sixty-three, duty shall not become chargeable on the sale, after the passing of this Act, of any property in respect of which exemption has been allowed under these sections, if the sale is to the National Gallery, British Museum, or other similar National Institution, any University, any County Council, any Municipal Corporation, in the United Kingdom, or the National Art Collections Fund.

[Here see Section 40 of the Finance Act, 1930.]

PART VI

GENERAL

Construction and Short Notice

65.—(1)

Part IV of this Act shall be construed together with the Finance Act, 1894.

(2) This Act may be cited as the Finance Act, 1921.

Finance Act, 1922

[12 & 13 Geo. 5. Ch. 17]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connexion with Finance. [20th July, 1922.]

PART V

MISCELLANEOUS AND GENERAL

Option as to Payment of Estate Duty in Certain Cases

44. Where any land or chattels settled by Act of Parliament or Royal Grant pass on the death of any person, any estate duty payable in respect thereof, or of any interest therein under subsection (5) of section five of the Finance Act, 1894, may, at the option of the person authorised or required to pay the same, and notwithstanding anything in the said section or in the Act of Parliament or Royal Grant settling the said land or chattels, be treated as a charge on and be raised and paid out of the corpus of such land or chattels, and the provisions of section nine of the Finance Act, 1894, dealing with the charge of estate duty and the facilities for raising that duty shall apply.

The option given by this section shall be exercisable in any case in which estate duty in respect of land or chattels, or any interest therein, to which subsection (5) of section five of the Finance Act, 1894, applies, is unpaid at the date of the passing of this Act, irrespective of the date of the death which gave rise to the claim for that duty.

Extension to Malay States sect. 20 of 57 & 58, Vict. c. 30

45.—(1) Section twenty of the Finance Act, 1894 (which relates to payment of death duties where death duties are payable in certain British Possessions), shall have effect as if the Malay States were a British Possession within the meaning of that section.

(2) For the purposes of this section, "the Malay States" means the Federated Malay States and Johore, Kedah, Perlis, Kelantan, Trengganu, and Brunei.

Short Title

49.—(2) This Act may be cited as the Finance Act, 1922.

Finance Act, 1923

[13 & 14 Geo. 5. Ch. 14]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, to amend the Law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connexion with Finance. [18th July, 1923.]

PART III

MISCELLANEOUS AND GENERAL

Provision as to Inclusion of Property Outside Great Britain in Property Passing on the Death of a Deceased Person

37.—(1) Where property situate out of Great Britain is bequeathed to or settled on different persons in succession and legacy duty or succession duty has, whether before or after the commencement of this Act, been paid thereon, such duties shall, for the purposes of subsection (2) of section two of the Finance Act, 1894 (which provides that property situate out of Great Britain shall be deemed to be included in property passing at the death of the deceased only if legacy or succession duty is payable in respect thereof or would be so payable, but for the relationship of the person to whom it passes), be deemed to be payable in respect of the property on the death of each of those persons in succession, notwithstanding that the whole amount of the duty was paid on one death only, as in the case of a legacy to the person.

(2) This section shall apply in the case of property passing on the death of a person who dies on or after the 16th day of April, 1923.

Short Title

39.—(2) This Act may be cited as the Finance Act, 1923.

Finance Act, 1924

[14 & 15 Geo. 5. Ch. 21]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connexion with Finance. [1st August, 1924.]

PART III

MISCELLANEOUS AND GENERAL

Extension of sect. 14 of Finance Act, 1900

38.—(1) All such relief as might have been given under section fourteen of the Finance Act, 1900, as amended by subsequent enactments (but not including section two of the Death Duties (Killed in War) Act, 1914), in respect of the death duties payable on property passing on the death of certain persons killed in the late war, shall be given in respect of the death duties payable on the death of persons, being persons to whom this section applies, who die from wounds inflicted, accidents occurring or disease contracted while on active service against an enemy, or on service which is of a warlike nature, or which, in the opinion of the Treasury, otherwise involves the same risks as active service.

(2) The persons to whom this section applies are the members of His Majesty's Forces who are subject to the Naval Discipline Act or to military law, whether as officers, non-commissioned officers, or soldiers, under Part V of the Army Act or to the Air Force Act.

(3) This section shall apply to the case of any persons dying from any such causes aforesaid arising after 31st day of August, nineteen hundred and twenty-one.

Short Title

41.—(2) This Act may be cited as the Finance Act, 1924.

Finance Act, 1925

[15 & 16 Geo. 5. Ch. 36]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connexion with Finance. [30th June, 1925.]

PART III**DEATH DUTIES****Amended Rates of Estate Duty**

22. The scale set out in the Fourth Schedule to this Act shall in the case of persons dying after the commencement of this Act be substituted for the scale set out in the Third Schedule to the Finance Act, 1919, as the scale of rates of estate duty:

Provided that, where an interest in expectancy within the meaning of Part I of the Finance Act, 1894, in any property has, before the twenty-eighth day of April, nineteen hundred and twenty-five, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Estate Duty payable in respect of Agricultural Property to be Charged in Part on Agricultural Value at the rate under Finance Act, 1919

23.—(1) Where an estate in respect of which estate duty is payable on the death of a person dying after the commencement of this Act comprises or consists of agricultural property, the estate duty payable in respect of the agricultural property shall instead of being charged on the principal value thereof at the appropriate rate payable under this Act, be charged as follows, that is to say, the duty shall be charged on the agricultural value of the property at the appropriate rate payable under the scale of rates set out in the Third Schedule to the Finance Act, 1919, and shall be charged on the amount by which the principal value of the agricultural property exceeds

the agricultural value thereof (in this Act referred to as "the excess principal value") at the appropriate rate payable under the scale set out in the Fourth Schedule to this Act.

(2) For the purposes of this section the agricultural value of agricultural property shall be taken to be the value which the property would bear if it were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property, decreased by the value of any timber, trees, wood or under-wood growing thereon.

(3) Where any agricultural property is subject to a mortgage, debt, or incumbrance in respect of which an allowance is by law to be made for the purposes of estate duty, the mortgage, debt, or incumbrance shall, for the purposes of this section, be apportioned between the agricultural value of the property and the excess principal value of the property in proportion to the amounts of those two values respectively.

(4) In this section the expression "agricultural property" means agricultural property within the meaning of paragraph (g) of subsection (1) of section twenty-two of the Finance Act, 1894, and the expression "appropriate rate" means the rate of estate duty appropriate to the principal value of the estate passing on the death of the deceased.

Determination for Purposes of Succession Duty of date on which Succession arises

24. For the purposes of section eighteen of the Finance Act, 1894, and of section fifty-eight of the Finance (1909-10) Act, 1910, a succession shall be deemed to arise on the happening of the death by reason of which the successor, or any person in his right or on his behalf, becomes entitled in possession to the succession or to the receipt of the income or profits thereof.

PART IV

GENERAL

Construction, Short Title, Application, and Repeal

28.—

(3) Part III of this Act shall be construed together with the Finance Act, 1894.

(4) This Act may be cited as the Finance Act, 1925.

(5) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

SCHEDULES

FOURTH SCHEDULE

Scale of Rates of Estate Duty

Principal Value of the Estate				Rate per Cent of Duty
Exceeding	£	100 and not exceeding	£	
	500	"	1,000	1
"	1,000	"	5,000	2
"	5,000	"	10,000	3
"	10,000	"	12,500	4
"	12,500	"	15,000	5
"	15,000	"	18,000	6
"	18,000	"	21,000	7
"	21,000	"	25,000	8
"	25,000	"	30,000	9
"	30,000	"	35,000	10
"	35,000	"	40,000	11
"	40,000	"	45,000	12
"	45,000	"	50,000	13
"	50,000	"	55,000	14
"	55,000	"	65,000	15
"	65,000	"	75,000	16
"	75,000	"	85,000	17
"	85,000	"	100,000	18
"	100,000	"	120,000	19
"	120,000	"	140,000	20
"	140,000	"	170,000	21
"	170,000	"	200,000	22
"	200,000	"	250,000	23
"	250,000	"	325,000	24
"	325,000	"	400,000	25
"	400,000	"	500,000	26
"	500,000	"	750,000	27
"	750,000	"	1,000,000	28
"	1,000,000	"	1,250,000	29
"	1,250,000	"	1,500,000	30
"	1,500,000	"	2,000,000	32
"	2,000,000	"	"	35
"	"	"	"	40

Finance Act, 1927

[17 & 18 Geo. 5. Ch. 10]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise), and the National Debt, and to make further provision in connexion with Finance. [29th July, 1927.]

PART IV**MISCELLANEOUS AND GENERAL****Relief under sect. 16 of Finance Act, 1907, in connection with certain Settled Property to Cease**

51. Section sixteen of the Finance Act, 1907 (which provides that settled property to which subsection (2) of section twelve of the Finance Act, 1900, applies, instead of being aggregated with other property to a limited extent only under the said section twelve, shall, in the case of persons dying on or after the nineteenth day of April, nineteen hundred and seven, be treated as an estate by itself), shall be repealed so far as relates to persons dying after the commencement of this Act.

Provided that, where an interest in expectancy within the meaning of Part I of the Finance Act, 1894, in any property has before the eleventh day of April, nineteen hundred and twenty-seven, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this section had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Provisions with respect to Relief from Double Taxation in certain cases where Succession Duty is Payable in Northern Ireland

52. Where the Commissioners of Inland Revenue are satisfied that, under a settlement of which the forum of administration is in Northern Ireland, succession duty has been paid, or

is payable, in Northern Ireland in respect of any settled personal or moveable property by reason of the death of a person dying on or after the twenty-second day of November, nineteen hundred and twenty-one, a sum equal to the amount of that duty shall be allowed from the legacy duty or succession duty payable in Great Britain in respect of that property on the same death.¹

Authorisation of disclosure of information in connexion with taxes to Officers of Northern Ireland Government

53. The obligation as to secrecy imposed by any enactment with regard to any tax placed under the care and management of the Commissioners of Inland Revenue shall not prevent the disclosure by any authorised officer of those Commissioners to any authorised officer of the Government of Northern Ireland of information necessary for the purpose of determining the liability of any person to any tax or the title of any person to repayment or allowance of any tax placed under the care and the management of the Ministry of Finance for Northern Ireland.

Construction, Short Title, Application, and Repeal

57.—

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment, including this Act.

(4) This Act may be cited as the Finance Act, 1927.

(5) Such of the provisions as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(6) The enactments set out in Part II of the Sixth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

[¹ *The corresponding provisions as regards the allowance in Northern Ireland of British duty against Northern Irish duty are contained in Section 6 (1) of an Act of the Northern Irish Parliament entitled the Finance Act (Northern Ireland), 1927 (17 & 18 Geo. 5, c. 11). And mutual arrangements for avoidance of double taxation of succession and legacy duty of Irish Free State property are set out in Statutory Rules and Orders, 1926, No. 975.]*

APPENDIX

SIXTH SCHEDULE

Enactments Repealed

Part II

Section and Chapter	Short Title	Extent of Repeal
63 & 64 Vict., c. 7	The Finance Act, 1900	Subsection (2) of section twelve, except so far as relates to persons dying before the nineteenth day of April, nineteen hundred and seven

Finance Act, 1928

[18 & 19 Geo. 5. Ch. 17]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connexion with finance. [3rd August, 1928.]

PART III

MISCELLANEOUS

.
Exemption from Income Tax, Estate Duty and Stamp Duties in case of Trust Funds and Gifts for Reduction of National Debt

30.—(1) Where any property is held upon trust in accordance with directions which are valid and effective under section nine of the Superannuation and other Trust Funds (Validation) Act, 1927 (which provides for the validation of trust funds for the reduction of the National Debt), any income arising from that property or from any accumulations of any such income and any profits of any description otherwise accruing to the property and liable to be accumulated under the trust shall be exempt from income tax.

(2) Where any person gives such directions as are mentioned in the said section nine by any instrument, and the

directions take effect during his life and immediately after the making of the instrument, the property directed to be held in accordance with those directions shall be exempt from estate duty, unless the Treasury, within three months after they receive notice of the taking effect of the instrument, disclaim the interest of the National Debt Commissioners under the said directions.

(3) Where an absolute gift of any property is made during the lifetime of the donor to the National Debt Commissioners to be applied by them in reduction of the National Debt, the property shall be exempt from estate duty as from the date when it is transferred to the Commissioners.

(4) Any instrument by which any property is transferred to trustees to be held upon trust in accordance with directions which are valid and effective under the said section nine or by which any property is conveyed by way of absolute gift to the National Debt Commissioners to be applied by them in reduction of the National Debt shall be exempt from stamp duty.

Construction, Short Title, Application, and Repeal

35.—(4) This Act may be cited as the Finance Act, 1928.

(5) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

Finance Act, 1930

[20 & 21 Geo. 5. Ch. 28]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connexion with finance. [1st August, 1930.]

PART III

ESTATE DUTY

Rates of Estate Duty

Amended Rates of Estate Duty

33. The scale set out in the Second Schedule to this Act shall in the case of persons dying after the commencement of this

Act be substituted for the scale set out in the Fourth Schedule to the Finance Act, 1925, as the scale of rates of estate duty:

Provided that, where an interest in expectancy within the meaning of Part I of the Finance Act, 1894 (in this Part of this Act referred to as "the principal Act"), in any property (other than property deemed to pass on a death by virtue of the provisions of the next succeeding section but one of this Act) has, before the fourteenth day of April, nineteen hundred and thirty, been *bonâ fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Companies

Estate Duty where Property of Deceased has been Transferred to a Company

34.—(1) On the death after the commencement of this Act of any person who has, at any time after the thirty-first day of July, nineteen hundred and eighteen—

- (i) made to a company to which this Part of this Act applies, whether directly or indirectly, any such transfer as is specified in subsection (2) of this section; and
- (ii) received within the prescribed period out of the resources or at the expense of the company, whether directly or indirectly, any such benefit as is so specified,

there shall be computed for each accounting year falling wholly or partly within the prescribed period the proportion which the total value of the benefits so received in the accounting year bears to the total income of the company in the accounting year, and, if the average of the proportions so computed exceeds fifty per cent, there shall for the purposes of estate duty be deemed to pass on the death (over and above any other property which passes or is deemed to pass thereon), such sum of money not exceeding the value of the total assets of the company as bears to the said value the same proportion as the said average proportion:

Provided that—

(a) the sum computed as aforesaid shall be reduced by the amount, if any, by which the principal value at the date of death—

(1) of the subject of the transfer; or

(2) if the subject of the transfer has been sold or exchanged by the company, either of the subject of the transfer or of the property in the hands of the company which is or represents the proceeds of the sale or exchange

is shown to the satisfaction of the Commissioners of Inland Revenue to fall short of the said sum; and

(b) notwithstanding anything in this section, the value of any property or any interest in property shall not be taken into account, directly or indirectly, for the purpose of assessment of estate duty more than once on the same death; and

(c) if the total assets of the company comprise any property which is by virtue of the next succeeding section deemed to pass on the death, there shall in computing the said proportions and ascertaining the sum of money, if any, which is deemed to pass by virtue of this section, be subtracted—

(1) from the value of the total assets of the company, the value of the said property as ascertained for the purposes of the next succeeding section;

(2) from the total income of the company in every accounting year and also from the total value of the benefits received by the deceased therein, a sum equal to so much of that total income as is ascribed to—

(i) that property; or

(ii) in a case where that property is deemed to pass as being or representing the proceeds of any other property, that other property or the proceeds thereof or any property representing those proceeds.

(2) The transfers referred to in the preceding subsection are transfers, whether made for consideration or not, of property (being property which, if it had been in the disposition of the deceased at his death, would have been property in respect of

which estate duty would have been payable on the death) or any interest in any such property, other than—

- (a) *bonâ fide* sales where the consideration for the sale was received or receivable wholly by the deceased for his own use or benefit and was satisfied or to be satisfied in one or more of the following manners, that is to say, by a capital sum of a fixed amount or by shares in or debentures of the company;
- (b) transfers of or incidental to the transfer of a business, not being a business which substantially consists in holding, managing, developing or dealing in land situate in Great Britain;
- (c) transfers of, or of any interest in, property which by virtue of the next succeeding section is deemed to pass on death;
- (d) transfers of patents or copyrights, or of any moveable tangible property except money and securities;
- (e) transfers where either the deceased or the company is acting in the capacity of trustee, factor, agent, receiver, or manager;

and the benefits so referred to are—

- (i) any payments made, whether for consideration or not, to or for the benefit of the deceased, other than the following payments, that is to say—
 - (1) dividends in respect of shares in the company;
 - (2) interest on, and repayments in respect of, money lent to the company;
 - (3) payments of or on account of purchase money under a *bonâ fide* sale, where that purchase money is a capital sum of a fixed amount;
 - (4) payments of or on account of royalties, not being royalties limited to cease at the death of the deceased;
 - (ii) any right in or enjoyment of any land.
- (3) In ascertaining for the purposes of this section the value of the benefit—
- (a) in the case of a benefit consisting of a payment, a deduction shall be made in respect of any income tax (other than sur-tax) paid or borne by the deceased in respect of that payment; and

- (b) the value of a benefit consisting of any right in or enjoyment of land shall be computed by reference to the annual value of that land as ascertained for purposes of income tax, due allowance being made in respect of any rent paid by the deceased.

(4) In ascertaining for the purpose of this section the total income for any accounting year of a company, the income of the company from any source shall be computed in accordance with the provisions of the Income Tax Acts relating to the computation of income from such a source, subject to the modification that the computation shall be made by reference to the actual income for the accounting year and not by reference to the income for any other period:

Provided that—

- (a) no deduction shall be made in respect of any payment made to or for the benefit of, or any other benefit accorded to, the deceased, except dividends on preference shares in, and interest on money lent to, the company; and
- (b) subject to the provisions of the last preceding paragraph, deductions shall be made for—
- (i) income tax paid or borne by the company; and
 - (ii) interest on money lent to the company; and
 - (iii) dividends on preference shares; and
 - (iv) rents, royalties, and other payments by the company on which income tax is deducted at source.

(5) Where the accounting years falling wholly or partly within the prescribed period do not coincide with the periods for which the accounts of the company are made up, the Commissioners of Inland Revenue may for the purpose of ascertaining the total income of the company for an accounting year divide any of the said periods and make such apportionments and aggregations of the income of the company as may be necessary, so, however, that any apportionments so made shall be made in proportion to the number of months or fractions of months in the respective periods for which the apportionment is made.

(6) In this section—

The expression “accounting year”—

- (a) in relation to a company which at the time of the death of the deceased person has made up accounts for a

period of twelve months ending on a date within the twelve months next preceding the death, means a period of twelve months ending either on that date, or on the same day of the year in any previous year; and

(b) in relation to any other company, means a period of twelve months ending on such date within the twelve months next preceding the death as may be determined by the Commissioners of Inland Revenue or on the same day of the year in any previous year; and

The expression "the prescribed period" means the period which—

- (i) ends on the date on which the last accounting year ends; and
- (ii) begins three years before that date, or, if the company in question was not then in existence, on the day on which the company came into existence.

(7) Property which is deemed to pass on a death by virtue of the provisions of this section shall, notwithstanding anything in the Act, be an estate by itself, and shall not be aggregated with any other property.

Estate Duty where property in which Deceased had a Life-interest is Transferred to a Company

35.—(1) Where at any time before the death of a person dying after the commencement of this Act any property in which the deceased had an estate or interest limited to cease at his death, was transferred by the deceased and the person interested in the remainder or reversion, whether directly or indirectly, and whether by one or more transactions, to or for the benefit of a company to which this Part of this Act applies, then unless—

- (a) the transfer was made before the first day of August, nineteen hundred and eighteen; or
- (b) the property was settled property and the interest of the deceased would in any case have failed by reason of his death before it would have become an interest in possession; or
- (c) the share of the consideration payable to the deceased in respect of the transfer was satisfied otherwise than by an allotment of shares in the company or the grant to him by the company of an annuity or other right to

receive periodical payments, not being payments on account of purchase money being a capital sum of fixed amount; or

- (d) the deceased had at least three years before his death relinquished all interest in the property and had not at any time within those three years the possession or enjoyment (otherwise than under a lease or agreement for a lease at a rack rent) of any part thereof or of any benefit secured to him, whether by contract or otherwise, in relation to the relinquishment of his interest therein, and was not at any time within the said period in receipt of or entitled to any payment from the company, otherwise than in respect or on account of debentures or loans or purchase money being a capital sum of a fixed amount,

the property shall be deemed for the purposes of estate duty to pass on the death in like manner as if the estate or interest of the deceased therein had continued until the death:

Provided that where the property or any part thereof has been *bonâ fide* sold or exchanged by the company during the deceased's lifetime for full consideration in money or money's worth, the property or so much thereof as has been so sold or exchanged shall not be deemed to pass on the death, but in lieu thereof the proceeds of the sale or exchange or, as the case may be, the property which, at the time of death, represents those proceeds shall be deemed so to pass.

(2) In determining the value of any property deemed to pass under this section, there shall be deducted from the principal value thereof—

- (a) so much of any sum borrowed by the company as has been applied by the company in the improvement of the property, and has not at the death been repaid by the company;
- (b) a sum equal to the capital sum of money paid to the deceased as part of the consideration for the transfer; and where estate duty is payable in connection with the death on any shares of or debentures in the company, a sum equal to the principal value of such of those shares or debentures as were transferred or allotted to the deceased in consideration of the transfer of the property.

(3) Property which is deemed to pass on a death by virtue of the provisions of this section shall, notwithstanding anything in any Act, be an estate by itself, and shall not be aggregated with any other property.

36.—(1) The estate duty payable in respect of any property which is by virtue of the provisions of the two last preceding sections deemed to pass on the death of any person shall be a debt due from the company concerned to His Majesty.

(2) The company concerned shall be accountable for any such duty and shall, for the purpose of raising and paying that duty, have all the powers conferred on accountable persons by the principal Act, and if the duty or any part thereof is paid by the executor of the deceased it shall be repaid to him by the company.

(3) Where on the death of any person a claim for duty arises by virtue of any of the provisions of the two last preceding sections, the company concerned shall notify the Commissioners of Inland Revenue of the death of the said person, and any company wilfully failing to give such a notification shall be liable to a penalty not exceeding five hundred pounds.

(4) The Commissioners of Inland Revenue may, for the purpose of carrying the two last preceding sections and the next following section of this Act into effect, require any company to which this Part of this Act applies to furnish to them within two months copies of such of the balance sheets and profit and loss or income and expenditure accounts, and such other particulars, as the Commissioners may reasonably require, and if any company fails to comply with the provisions of this subsection—

- (i) the company shall be liable to a penalty not exceeding five hundred pounds, and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorises or permits the failure shall be liable to the like penalty; and
- (ii) an order may be made against all or any of the directors of the company requiring them to comply with the requirements of the Commissioners in like manner as an order may be made against any person who is accountable for succession duty or legacy duty to deliver an account and the provisions of section fifty-five of the Crown Suits, etc., Act, 1865, and in Scotland

the provisions of section forty-seven of the Succession Duty Act, 1853, shall apply accordingly, subject to the necessary modifications.

Valuation of Shares in Certain Companies

37.—(1) Where there pass on the death of any person dying after the commencement of this Act, any shares (not being preference shares) in any company to which this Part of this Act applies, then if either—

(a) there is deemed by virtue of the provisions of this Part of this Act to pass on the death a sum of money computed by reference to the value of the total assets of the company; or

(b) the control of the company was immediately before the death in the hands of the deceased;

the principal value of those shares for the purposes of estate duty shall not be ascertained in the manner provided by subsection (5) of section seven of the principal Act, but shall be ascertained by reference to the value of the total assets of the company:

Provided that in cases falling within paragraph (a) of this subsection, the value of the total assets of the company shall, for the purposes of this section, be deemed to be reduced by the sum of money therein referred to.

(2) For the purposes of this section the control of a company shall be deemed to be in the hands of a person if—

(a) by virtue of the shares which he controls he has control of more than half the voting power of the company; or

(b) he has by virtue of the provisions in the memorandum of association or articles of the company, or other instrument whatsoever constituting or defining the constitution of the company, the powers of a board of directors or of a governing director or the right to nominate a majority of the directors or the power to veto the appointment of a director, or powers of the like nature; or

(c) he has otherwise the right to receive, or the power to dispose of, more than half of the income of the company.

(3) This section shall not apply to shares which have, within the period of twelve months immediately preceding

the death of the deceased, been the subject of dealings on a recognised stock exchange in the United Kingdom or been quoted in the official list of such a stock exchange.

Interpretation

38. In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

“Company to which this Part of this Act applies” means any body corporate wheresoever incorporated, which either—

- (i) is so constituted as not to be controlled by its shareholders or by any class thereof; or
- (ii) has not issued to the public, or, in the case of a company which is about to make an issue of shares to the public, will not, when it has made that issue, have issued to the public, more than half of the shares by the holders whereof it is controlled:

“Share” includes any interest whatsoever in a company, by whatsoever name it is called, analogous to a share, and the expression “shareholder” shall be construed accordingly:

“Preference share” means a share the holder whereof is entitled to a dividend at a fixed rate only:

“Value of the total assets of the company” means the principal value, ascertained in accordance with the provisions of subsection (5) of section seven of the principal Act, of all the assets of the company as a going concern, including goodwill, after deducting therefrom—

- (i) the par or redemption value, whichever is the greater, of any debentures, debenture stock and preference shares of the company;
- (ii) all debts of the company incurred or created *bonâ fide* for consideration in money or money's worth;
- (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount;
- (iv) the amount of any reserve fund separately invested which is *bonâ fide* intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependants or relatives, and in no other manner.

*Miscellaneous***Death Duties on Property subject to an Annuity which has been Surrendered**

39. In the case of a person dying after the commencement of this Act, property which was subject to an annuity or other periodical payment limited to cease on the death of the deceased shall for the purposes of the principal Act be deemed to pass on the death of the deceased to the extent of the benefit which would accrue from the cesser of that annuity or other payment notwithstanding that the annuity or other payment has been surrendered, assured, divested, or otherwise disposed of during the lifetime of the deceased, whether for value or not, to or for the benefit of the person entitled to the property, unless the surrender, assurance, divesting or disposition was *bonâ fide* made or effected three years before the death of the deceased and the person entitled to the annuity or other payment was not at any time within that period in receipt of any substituted annuity or other periodical payment limited to cease on his death, being an annuity or payment which was secured, whether by contract or otherwise, to him in return for the surrender, assurance, divesting, or disposition.

Exemption from Death Duties of Objects of National, Scientific, Historic, or Artistic Interest

40.—(1) Where there pass on the death of a person dying after the commencement of this Act any objects to which this section applies, the value of those objects shall not be taken into account for the purpose of estimating the principal value of the estate passing on the death or the rate at which estate duty is chargeable thereon, and those objects shall, while enjoyed in kind, be exempt from death duties.

(2) In the event of the sale of any objects to which this section applies, death duties shall, subject as hereinafter provided, become chargeable on the proceeds of sale in respect of the last death on which the objects passed and, as respects estate duty, at the rate appropriate to the principal value of the estate passing on that death upon which estate duty is leviable, and with which the objects would have been aggregated if they had not been objects to which this section applies, and the person by whom or for whose benefit the objects were sold shall be accountable for the duties and shall deliver an

account for the purposes thereof within one month after the sale:

Provided that death duties shall not become chargeable as aforesaid if the sale is to the National Gallery, British Museum, or any other similar national institution, any university, county council, or municipal corporation in Great Britain, or the National Art Collections Fund.

(3) The objects to which this section applies are such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income as on a claim being made to the Treasury under this section appear to them to be of national, scientific, historic or artistic interest.

(4) Nothing in this section shall affect the power of the Treasury under subsection (2) of section fifteen of the principal Act to remit death duties chargeable in respect of any objects to which that section applies.

PART VI

MISCELLANEOUS AND GENERAL

Construction, Short Title, etc.

53.— . . . (3) Part III of this Act shall be construed as one with the Financial Act, 1894.

(6) This Act may be cited as the Finance Act, 1930.

SECOND SCHEDULE

Scale of Rates of Estate Duty

Principal Value of Estate				Rate Per Cent of Duty
Exceeding	£	100 and not exceeding	£	
			500	1
			500	2
	500	„ „	1,000	3
	1,000	„ „	5,000	4
	5,000	„ „	10,000	5
	10,000	„ „	12,500	6
	12,500	„ „	15,000	7
	15,000	„ „	18,000	8
	18,000	„ „	21,000	9
	21,000	„ „	25,000	10
	25,000	„ „	30,000	11
	30,000	„ „	35,000	12
	35,000	„ „	40,000	

Scale of Rates of Estate Duty—(contd.)

Principal Value of Estate				Rate Per Cent of Duty
Exceeding	£		£	
	40,000 and not exceeding		45,000	13
"	45,000	"	50,000	14
"	50,000	"	55,000	15
"	55,000	"	65,000	16
"	65,000	"	75,000	17
"	75,000	"	85,000	18
"	85,000	"	100,000	19
"	100,000	"	120,000	20
"	120,000	"	150,000	22
"	150,000	"	200,000	24
"	200,000	"	250,000	26
"	250,000	"	300,000	28
"	300,000	"	400,000	30
"	400,000	"	500,000	32
"	500,000	"	600,000	34
"	600,000	"	800,000	36
"	800,000	"	1,000,000	38
"	1,000,000	"	1,250,000	40
"	1,250,000	"	1,500,000	42
"	1,500,000	"	2,000,000	45
"	2,000,000	.	.	50

Finance Act, 1931

[21 & 22 Geo. 5. Ch. 28]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the Law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with finance. [31st July, 1931.]

PART IV**MISCELLANEOUS AND GENERAL****Exemption from Death Duties in case of Land given to National Trust**

40.—(1) Where any estate or interest in land—

(a) is given, devised, or bequeathed by any person to, and so

as to become indefeasibly vested in, the National Trust and is held by that Trust inalienably for the public benefit; or

- (b) is given, devised, or bequeathed by any person to, and so as to become indefeasibly vested in, the Commissioners of Works, or a local authority, and accepted by the Commissioners or authority under section two of the Ancient Monuments Consolidation and Amendment Act, 1913;

the Treasury may if that person dies after the commencement of this Act, and the estate or interest was the whole estate or interest of that person in the land remit any duties leviable on or with reference to the death of that person and no property the duties in respect of which are remitted under this section shall be aggregated with any other property for the purpose of fixing the rate of any estate duty.

(2) In this section the expression "National Trust" means the National Trust for Places of Historic Interest or National Beauty incorporated by the National Trust Act, 1907.

Exemption of Savings Certificates held by Persons Domiciled in Channel Islands or Isle of Man from Estate Duty

41. Where the holder of a war savings certificate or a national savings certificate is at the time of his death domiciled in the Channel Islands or the Isle of Man his rights under the certificate shall, for the purposes of the enactments relating to estate duty payable in Great Britain, be deemed to be property situate out of Great Britain.

Construction, Short Title, Application, and Repeal

44.—

(4) This Act may be cited as the Finance Act, 1931.

(5) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

Finance Act, 1933

[23 & 24 Geo. 5. Ch. 19]

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connexion with finance. [28th June, 1933.]

PART V**MISCELLANEOUS AND GENERAL****Reduction of Rate of Interest on Death Duties**

43.—(1) Section thirty of the Finance Act, 1919 (which amended section eighteen of the Finance Act, 1896 by increasing the rate of interest on death duties from three to four per cent per annum), shall cease to have effect except as respects interest accruing due before the twenty-sixth day of April, nineteen hundred and thirty three, and the said section eighteen shall have effect as originally enacted as respects interest accruing due on or after that date.

Short Title, etc.

47.—(1) This Act may be cited as the Finance Act, 1933.

Official Instructions

Application to the Commissioners of Inland Revenue for a Duty-paid Stamp, or Certificate, in respect to a Second or subsequent grant of Probate or administration.

Where an application is made for (1) a grant of double probate, (2) a grant *de bonis non*, or (3) a cessate grant, the Form No. 39 should be transmitted with the appropriate form of Inland Revenue Affidavit (Form "A-5," where the deceased died after 1st August, 1894, otherwise Form "A") to the

Controller, Estate Duty Office, Inland Revenue, Somerset House, Strand, W.C.2.

Official Reference, E.D./F.19 .

In the Estate of deceased

Date of death.....

Date of original grant.....

1. Application is hereby made for a certificate or duly-paid stamp to be paid upon the form of affidavit¹ herewith, which is dated the day of 19 , and which contains an account of the unadministered estate of the deceased within the operation of the previous grant.

2. This application is made by or on behalf of
who is²
and is now applying for a grant of
and has sworn the said unadministered estate to be of the value of £ .

3. A further grant is now necessary because³ the original administrator named died on the
day of , 19 , leaving part of the estate of the said deceased unadministered.

¹ Insert here "A-5" or "A" as the case may be.

² Here state how entitled to the proposed Grant.

³ Adapt to suit the facts showing the particular circumstances which make the further grant necessary.

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